

## SENATE—Wednesday, March 11, 1992

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*\*\*\* ye shall know the truth, and the truth shall make you free.—John 8:32.*

The prayer this morning was first offered by the former Chaplain of the Senate, Peter Marshall, in 1947:

"O Lord our God, if ever we needed Thy wisdom and Thy guidance, it is now. \*\*\* We pray that Thou wilt bless Your servants chosen by the people of this Nation, for Thou knowest them, their needs, their motives, their hopes, and their fears. Lord Jesus, put Thine arm around them to give them strength, and speak to them to give them wisdom greater than their own. May they hear Thy voice, and seek Thy guidance. May they remember that Thou art concerned about what is said and done here, and may they have clear conscience before Thee, that they need fear no man. Bless each of us according to our deepest need, and use us for Thy glory, we humbly ask in Jesus' name. Amen."

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 11, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from Wisconsin, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa [Mr. GRASSLEY] is recognized to speak for up to 20 minutes.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2337 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Wyoming.

## TRIBUTE TO JENNINGS RANDOLPH ON HIS 90TH BIRTHDAY

Mr. SIMPSON. Mr. President, it is with great pleasure that I pay tribute to one of the most remarkable men ever to serve in this Chamber. That man is our beloved Jennings Randolph who celebrated his 90th birthday last Sunday, March 8. Jennings Randolph retired from this body in 1984.

Few Senators, I think past and present, have done more to address the needs of the handicapped or the poor or the veterans of our country than Jennings Randolph. He was the distinguished chairman of the Subcommittee on the Handicapped for almost a decade. Back in those halcyon days when the Republicans were in the majority, he worked tirelessly as the ranking minority member on the Environment and Public Works Committee. On the Veterans' Affairs Committee he was especially diligent in his efforts to ensure severely handicapped veterans were treated fairly.

Jennings Randolph devoted 53 years of his life to Congress. In the early sixties, he served in the Senate with my dear father, Milward L. Simpson, U.S. Senator from Wyoming. They became the closest of friends. When I arrived here in 1978, no one was more kind and generous and expansive to me than Jennings Randolph.

He was most gracious in introducing me to the other Members, gave me valuable counsel and advice in dealing with issues affecting the Nation's veterans. That is not to say that dear Jennings is to blame for some of the skirmishes I have had in the past with some representatives of the various veterans' groups.

Most importantly, I cherish the special relationship we have developed over the years. There were times when he has been like a father to me, and I

am honored that he has shared so much with me about his beloved West Virginia, his family, his alma mater, Salem College, his days of coaching football at North Dakota, and his travels with his team to play other colleges there.

I spoke to him by telephone last week. I can assure my colleagues that age has not damaged his keen mind or his swift sense of humor. When I think of Jennings Randolph, I think of his great compassion for his fellow man, his wisdom, his wit, his innate courtesy, his gentility, and his civility. All of those attributes truly define this remarkable man with such a remarkably strong character. So happy birthday, Jennings, and may God continue to bless you.

Mr. President, I do not want to intrude on the Senator from Arkansas. I would ask the status of the floor at this time.

The ACTING PRESIDENT pro tempore. The Senate is in morning business. The Senator has 2 minutes remaining.

Mr. SIMPSON. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Oregon for a period of up to 5 minutes.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 2335 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut for a period of up to 5 minutes.

## SCUDS ABOARD NORTH KOREAN SHIPS

Mr. LIEBERMAN. Mr. President, after several days of veiled and confusing threats from the administration against those North Korean ships steaming toward Iran with Scuds on board, the ships have in fact safely arrived in the Iranian port.

Clearly, we have lost the battle of the bluff, and we stand embarrassed in the glare of global attention. I wish the administration had stated its position on this matter more clearly and consistently and implemented that policy successfully. For if we cannot stop those ships from delivering their cargo, then we certainly should have said so instead of falling back on the threats that ultimately proved empty and embarrassing.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

But as troubling as this episode in the last few days has been, I think there is a larger point here, and we ought to magnify the significance of the incident beyond proportion. The larger point is that Iran and Syria, like Iraq, already have Scuds. Those are dangerous ballistic missiles that can be equipped with warheads containing weapons of mass destruction. They are a crude and destabilizing weapon of war that detracts from the prospects for peace and security in the Middle East, Persian Gulf, and the world.

In fact, it is certainly a reality of the post-cold war world that the greatest threat to world and American security is in the spread of primitive weapons of mass destruction and ballistic missiles that have the capacity to deliver them on foreign nations.

We cannot sit by and simply abide while nations like China and North Korea keep shipping these dangerous weapons to nations like Iran and Syria.

More pressure must be brought to bear on all nations to join the missile technology control regime, the MTCR. I think we have to work to strengthen that regime to prevent the proliferation of ballistic missiles around the globe.

We must also enforce American laws that penalize foreign companies that export missile components or send technicians to nations developing those missiles.

We have to do all we can here on the domestic front to ensure that American technology is not exported in a fashion that aids those nations developing their own ballistic missile capacities.

#### U.N. SANCTIONS AND IRAQ

Mr. LIEBERMAN. Mr. President, in a related matter, Iraq's Foreign Minister, Tariq Aziz, is at the United Nations today to once again plead for relief from U.N. sanctions. I hope that he will find nothing but deaf ears in response to his pleas. In fact, Mr. Aziz should be given a clear and definite deadline for Iraq to fully comply with all U.N. resolutions or face severe consequences. The community of nations is tired of Saddam Hussein's cat-and-mouse games, particularly when the stakes are so high.

We are dealing here with a nation that clearly wants to resume production of weapons of mass destruction. It still has Scuds, and it still has the capacity to produce new ones. It still has some of its nuclear power infrastructure, and the main power to continue to research and produce those weapons. It still has the ability to attack its own citizens, its own neighbors, even if it is temporarily short of some of the means to do so.

Mr. President, it is time for the United States, working through the United Nations, to give Saddam Hussein a new

comprehensive deadline, and be prepared to use force against him if he does not fully comply.

I thank the Chair. I yield the floor.

#### HONORING THE NAVY SEABEES ON THE OCCASION OF THEIR 50TH ANNIVERSARY

Mr. NUNN. Mr. President, during March 1992, the Navy's famed Seabees are celebrating the 50th anniversary of their founding as a component of the sea services. I rise today to pay tribute to this group of American service men and women whose deeds have figured prominently during every major naval campaign since the early days of World War II. Today, the Seabees stand ready to respond to emerging crises anywhere in the world. Many serve on active duty in the Navy, but roughly two-thirds of the Seabees are proud members of the Navy Reserves. "Seabees" is the nickname applied to what is more officially termed Navy construction battalions.

Although their heroic actions may have gone relatively unnoticed by many citizens, their contributions have been every bit as important to our country's war efforts as those with more publicized exploits. The list of places where the Navy's Seabees have provided critical support to our fighting forces is an illustrious one, including Guadalcanal, Sicily, Normandy, Inchon, Chu Lai, and DaNang. Seabees have built airfields, roadways, and other facilities during combat, often operating under enemy fire. Most recently, more than 5,000 Seabees served in the Middle East, performing outstanding service during Operation Desert Shield/Desert Storm:

During the buildup of forces, the Seabees built 10 separate camps for more than 42,000 personnel; 14 galleys capable of feeding 75,000 people; 6 million square feet of aircraft parking apron, after moving 9 million cubic yards of sand and dirt; 4 ammunition supply points; and a prisoner of war camp accommodating 40,000.

Supporting the Marine Corps offensive, the Seabees constructed and maintained a 200-mile stretch of four lane, unpaved desert road. This feat was all the more impressive because, to avoid alerting enemy forces of our intent, the Seabees built this road at the last minute.

The Seabees accompanied U.S. Marine combat forces during their drive to liberate Kuwait.

The Seabees' contribution has not been limited to wartime alone. They have distinguished themselves with outstanding service during peacetime relief operations as well. The Seabees have provided vital humanitarian assistance during foreign disaster relief operations, such as those following the eruption of Mount Pinatubo and supporting operation provide comfort to

aid Iraqi Kurds. The Seabees have also provided indispensable service during cleanup operations following domestic disasters, such as supporting hurricane relief work in South Carolina and earthquake recovery in San Francisco.

The Seabee's tradition is best typified by the can do spirit of the many unsung heroes who are proud to claim the title of "Seabee." These have included such heroes as Medal of Honor winner PO3c. Marvin G. Shields, and more recently, PO2c. Robert D. Stethem, who was killed during the hijacking of TWA flight 847 in 1985.

I am sure that all of the Members of the Senate join with me in wishing the Seabees a hearty well done and a happy birthday on this their 50th anniversary of distinguished service.

#### TRIBUTE TO C. PAUL PINSON

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to honor a member of the Labor Committee staff, C. Paul Pinson, who has served the Senate since February 1959 and is now retiring.

Paul has served the Senate faithfully, beginning as a doorman in the Senate gallery and rising to the position of publications clerk for the Committee on Labor and Human Resources, where he has served for over 20 years. Throughout these years, he has assisted the committee with great distinction and dedication.

On behalf of the Senators on the committee and Paul's many other friends, I commend him for his outstanding service and his commitment, and I extend my best wishes to Paul and his wife Margie for the years ahead.

Today the Committee on Labor and Human Resources adopted a resolution commending C. Paul Pinson for his outstanding service. I ask that a copy of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES OF THE U.S. SENATE, ADOPTED MARCH 1992, IN RECOGNITION OF C. PAUL PINSON

Whereas C. Paul Pinson has served the United States Senate faithfully since February 2, 1959;

Whereas C. Paul Pinson has served as publications clerk for the Committee on Labor and Human Resources for over twenty years; and

Whereas the Committee on Labor and Human Resources has benefited greatly from his dedicated and conscientious work:

Now, Therefore, Be it Resolved, That the Committee on Labor and Human Resources wishes to express its gratitude to C. Paul Pinson for his many years of service and for his devotion to the Committee and to the Senate; and

Be it Further Resolved, That the Committee on Labor and Human Resources expresses its sincere best wishes to C. Paul Pinson.

In Witness Whereof We, the members of the Committee on Labor and Human Resources, have subscribed our names hereto March 1992.

Edward M. Kennedy, Chairman; Claiborne Pell; Howard M. Metzenbaum; Christopher J. Dodd; Paul Simon; Tom Harkin; Brock Adams; Barbara A. Mikulski; Jeff Bingaman; Paul D. Wellstone.

Orrin G. Hatch, Ranking Minority Member; Nancy Landon Kassebaum; James M. Jeffords; Dan Coats; Strom Thurmond; Dave Durenberger; Thad Cochran.

#### IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at \$3,847,708,770,002.49, as of the close of business on Monday, March 9, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers \$286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to \$5.5 billion every week.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

#### THE TRADE IN GUNS OF CRIME

Mr. MOYNIHAN. Mr. President, I rise today to alert my colleagues to the plethora of guns used by teenagers and children in crime. Guns that are small and concealable, and others that are capable of firing dozens of rounds in seconds. Guns that are made by unscrupulous manufacturers concerned with their quarterly profits but not where the guns go once they leave their factory floors.

The Wall Street Journal on February 28 highlighted a family of such manufacturers, including Raven Arms Inc., and Davis Industries, and their wares, cheap small-caliber pistols that have become favorites of teenaged hoodlums. Their guns are among those seized and traced more often by the Bureau of Alcohol, Tobacco and Firearms.

A fine series of articles currently running in the New York Times shows the scope of the problem. There are about 200 million guns in circulation, and with proper care they can retain their deadly power indefinitely. Trying to find their niche despite the mass of guns already available, upstart outfits like Raven and Davis make small guns carried by street criminals and others like Intratec make exotic assault weapons used by drug gangs.

With all these guns available and manufacturers more than willing to

cater to the needs and deadly fashion of criminals, how can we curb the violence? I certainly support measures such as the waiting period for purchasers of handguns under the Brady bill and under the Violent Crime Control and Law Enforcement Act of 1991, but we ought also look to parallel and complementary measures.

On January 14, 1991, I introduced S. 51, a bill to ban .25 and .32 caliber and 9 millimeter ammunition. The .25 and .32 are small guns, many of which are made by Raven and Davis. The 9 millimeter is a common caliber for semi-automatic firearms used by drug gangs.

The guns are out there, and easily had by anyone who wants them. But these guns are useless without the ammunition they fire. After all, guns do not kill people; bullets do. As I said on another occasion, why not defang the deadly cobra? Why not control the flow of ammunition to control the guns that are already in the hands of criminals?

The proposition is a simple one, and is worth a try. It can certainly be no worse than any other strategy we have attempted thus far, and it may even save a few lives. I urge my colleagues to support this bill, and ask unanimous consent that the full text of the Wall Street Journal article and a New York Times article of March 10, 1992, be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 28, 1992]

#### FIRE POWER BEHIND THE CHEAP GUNS FLOODING THE CITIES IS A CALIFORNIA FAMILY (By Alix M. Freedman)

RANCHO MIRAGE, CA.—George Jennings has come a long way since his hardscrabble youth in southern Kansas.

In the 1940s, fresh out of high school, he pulled up stakes and hitchhiked west in time-honored pursuit of the American Dream. He started out toiling at menial jobs—painting signs, working in a cannery, digging holes for clothesline poles. Today, however, a crew of gardeners tends to the olive grove, grapevines and lemon trees here at his sun-drenched villa.

Mr. Jennings, the patriarch of a secretive clan in southern California, has made his fortune from a market of misery: the surprisingly cheap small-caliber pistols that sell by the thousands, largely in America's inner cities. In these enclaves of poverty and crime, three brands—the Raven .25, the Jennings .22 and the Davis .380—hold sway.

It's a family affair.

The three companies that make the Raven, Jennings and Davis guns are all owned by members of the Jennings family. Every year, they churn out some 400,000 cheaply made Saturday Night Specials. While high-power weapons like the Tec 9, the AK-47 and the Mac 10 dominate the headlines in fleeting moments of mass murder, the Jennings family's small-caliber pistols are far more lethal by dint of their sheer numbers, rock-bottom prices and easy availability.

#### BEGINNER'S WEAPON

Selling for as little as \$35, versus \$600 for higher-quality weapons, these are the starter guns for the fearful, the criminal and, in-

creasingly, the very young. To a startling degree, they also figure disproportionately in robberies and murders, piling up an alarming toll of casualties and an unending litany of violence.

A five-month investigation by this newspaper followed these handguns from the factory to the middleman and ultimately to the street. The picture that emerges is of a volatile family empire that built itself on the mundane details of low-cost manufacturing and high-volume distribution and thrives on the advantages of government protectionism and de facto oligopoly. In many ways, this is such a typical business that it's easy to lose sight of the product's main feature: It kills.

The tumult and tragedy that mark the family's products and customers are mirrored in the private lives of these California gun merchants. Their world has been racked by a range of trauma: wife-beating, a cocaine-overdose death, charges of death threats and tax evasion, and bitter one-upmanship among themselves.

"They all could have been one big, happy family drinking beer," says Larry Gudde, a former foreman at one of the companies. "But they didn't choose to do that because they were afraid one would get a dollar more than the other."

#### FATHER AND SON

Three men loom large in the family's gun trade. George Jennings, 63 years old, founded Raven Arms Inc. in 1970 and all but created the high-volume market for cheap handguns. He has just settled a nasty sexual-harassment suit filed by his former receptionist, with whom he had a longstanding affair and whom he promoted to the board of directors.

His son, Bruce Jennings, 43, trained at his side and split off to form Jennings Firearms Inc. in 1978. Bruce is a convicted wife-beater and the target of a probe to determine whether he structured his companies to evade the federal excise tax.

George's son-in-law, Jim Davis, 48, expanded the family trade further by starting his own Davis Industries Inc. in 1982. He later teamed up with the family to drive his own brother out of the gun business. Like George, he declined repeated requests, by telephone and letter, for an interview for this article. Only Bruce agreed to discuss the clan's business.

For years the family companies operated as a friendly and informal cartel. But more recently, riven by internal feuds, they have begun invading one another's turf with new guns and cutthroat pricing. They also are expanding into higher-power weapons, 9-millimeter pistols that will sell in huge volumes at some of the lowest prices on the market.

#### MOUNTING TOLL

One likely result: a further escalation of the carnage and killing on the nation's meanest streets. The family's pistols sell in all sorts of neighborhoods throughout the U.S., but they exact their highest tolls in urban centers. "We have a fire burning, and these companies are throwing gasoline on it," says Josh Sugarman of the Violence Policy Center, which studies violence prevention. "These people know what the inner-city gun buyer wants."

The Jennings interests offer no apology. Dave Brazeau, general manager of Raven Arms, says that, for those customers who use the pistols illegally, "if it wasn't a gun, it would be something else—a rock, a bow and arrow or a baseball bat."

But it isn't a rock or a bat that kids on the street prefer these days. Recently, in a graffiti-stained stairwell at the Martin Luther

King housing project in Harlem, a pudgy boy with a baseball cap shoved down over his round, smooth face embarked on a mission of revenge. A few days earlier someone had slapped his girlfriend. Now he was here to buy a gun—a Davis .380, which is deceptively powerful and easy to conceal in his pants pocket.

He hands \$70 in crumpled cash to a lanky, 16-year-old dealer and grabs a brown paper bag, heavy with the weight of black metal. "I got to go do something," the pudgy youth says. He spins on his heels, bolts down the stairs and is gone.

"He's gonna shoot someone who smacked his girl," the teen-age dealer says. It is business as usual. In just a year the dealer, who calls himself Jerry and peddles only the Jennings family lines, says he has made \$4,000 selling 50 small-caliber handguns—including seven to students at West Side High School, where he is an 11th-grader.

"Here's where I live, every young kid has a .22 or a .25," Jerry says. "It's like their first Pampers."

The guns that leave the family's factories are first bought by wholesalers, who in turn sell the weapons to gun stores and pawnshops for legitimate trade. Often, though, the pistols are bought in bulk at retail by illegal dealers—particularly in states where gun laws are lax—and smuggled by bus or train to urban centers for resale on the street.

Clearly, the criminals who use the guns are the ultimate abusers in this market. But the thriving trade has nonetheless redounded to the benefit of the Jennings family, helping its guns snap up market share and gain cachet with the young, turning some neighborhoods into virtual free-fire zones. For example:

In December, police say, 15-year-old Mack Moton used a Raven to rob and murder three cocaine dealers in Brooklyn, N.Y., shooting each one in the temple. Mack, who awaits trial, says an accomplice pulled the trigger. Less than three years before, the boy used a .25-caliber to kill a man who had stabbed his grandfather.

In Long Beach, Calif., 14-year-old Danny Jones stands outside a pawnshop and tells how he was just suspended from school after a Jennings .22 was found in his locker. Among his pals, Ravens and Jenningses "with pearly handles" are hot.

On Jan. 21, 15-year-old Rasheen Smith stood on a rooftop of a New York housing project and allegedly aimed his Raven .25 at a cop and fired, hitting him in the ankle. "Damn! I wanted to bust him in the cabbage," Rasheen said, according to bystanders. Rasheen is awaiting trial. "In this neighborhood, they distribute guns like food stamps," says the wounded officer in an interview at the hospital.

In 1990, in the Bronx section of New York, a five-year-old carried a Raven to kindergarten in his pocket. It was loaded.

Bruce Jennings vigorously disputes the idea that the family's guns figure prominently in inner-city mayhem. His customers, he says, "are just regular, everyday people who don't have the finances to buy higher-priced guns."

But statistics suggest otherwise:

The annual combined sales of Raven, Jennings and Davis may barely hit \$20 million, a fraction of the size of the nation's No. 1 gun maker, Smith & Wesson Co. Yet the trio accounted for 22% of all handguns produced in 1990 in the U.S. and an even higher proportion of handguns used in crime. In the past two years the U.S. Bureau of Alcohol, To-

bacco and Firearms has traced some 24,000 handguns sold after 1986 and used in murders and other offenses. The family's three brands accounted for about 27% of those traces, compared to roughly 11% for the much larger Smith & Wesson. Among the top 10 brands traced, Davis ranked first, Raven second and Jennings sixth.

In Houston last year, police seized almost 1,000 guns used in crimes, and the Raven .25, the Davis .380 and the Davis .32 were the top three guns. In Cleveland, police took in more than 2,000 handguns, and 154 of them were Ravens, making it the No. 2 brand.

Paradoxically, the ubiquitous Raven and the Jennings gun dynasty were born of a federal law meant to curb small-caliber weapons. After the assassinations of Robert F. Kennedy and Martin Luther King, Congress passed the Gun Control Act of 1968. The measure sought to reduce the availability of Saturday Night Specials, which then were largely imports, by cutting imports in half. Instead, it encouraged U.S. makers to jump into the market.

One of those was George Jennings, who ran a machine shop making airplane parts. He designed a cheap .25-caliber pistol and spent about \$50,000 tooling up to build the new line. Raven soon emerged as the lowest-cost producer, powered by big volume; a company brochure in the late 1980s boasted of sales of more than 1.8 million pistols.

Mr. Jennings's wealth began building on itself. Though no one knows exactly how much the family is worth, Mr. Jennings and his offspring clearly enjoy the prerogatives of the rich: lavish homes, Rolls-Royces and a couple of airplanes are among their possessions. Like the rest of his family, Mr. Jennings has drawn little public notice; few photos of him seem to exist. Gun magazines have rarely written about him or the family. Even inside the trade, the Jennings clan is an enigma. "These people aren't members of the club," says William Ruger, president of Sturm, Ruger & Co., the nation's second-largest gun maker.

At a trade show in Nashville recently, when a reporter approached Mr. Jennings to ask for an interview, his face reddened. "We're nice, law-abiding people. We aren't doing anything criminal or illegal," he said angrily. "We're very private people, and we won't contribute to your digging up dirt," he said, walking off.

The family patriarch has endured more than his share of dirt lately, detailed in the harassment suit filed in Los Angeles Superior Court against him and Raven Arms by his former lover, 53-year-old Wilma Cash.

Ms. Cash started at Raven as a \$3-an-hour receptionist in 1978. In 1983 her relationship began with Mr. Jennings, who stands over six feet tall and is trim with a full head of curly gray hair. According to Ms. Cash's deposition in the case, one day he handed her a pink message slip on which he had written: "Changes will be made in regard to your sexual activities."

Their six-year liaison blossomed in local hotels, on the road at trade shows and most often in his office, Ms. Cash testified. Along the way, she went on salary and rose to office manager, vice president and a member of Raven's board. She said that when she ended the relationship in 1989, Mr. Jennings demoted her, put her back on the time-clock and later fired her.

In a deposition taken for the case, Mr. Jennings readily admits the affair. "My wife and I had a problem, and as many women do, the sex is cut off as a weapon," he testified. He said he ended the affair when Ms. Cash got

"too serious" and added that he fired her for a "really poor attitude" and absenteeism.

The suit was settled on undisclosed terms. A court order sealed the file and gagged the participants. And so ended the patriarch's unpleasant brush with notoriety.

Unlike his father, Bruce Jennings tends toward the flashier side of life. Thrice-married, he says he once described himself to the local paper's society columnist as a "full-time womanizer" and has joked that he keeps a plastic surgeon on retainer to remodel his lady friends. Balding and a bit pudgy, he isn't bashful about his own cosmetic surgery: He once shocked secretaries at Davis Industries when, clowning, he offered to drop his trousers to show the results of his liposuction. "All I had taken off were those love handles," he says.

His many luxuries include an indoor waterfall that drops into a Jacuzzi at his ski lodge near Lake Tahoe, a Spanish Casa Seata fighter-trainer airplane and a blue Bentley that still bears the dealer's plate: "The Best There Is."

He and his third wife spend their time in a giant house in Newport Beach, Calif., known locally as the castle. Mr. Jennings also briefly owned Arizona's famed McCune mansion, which boasts its own ice-skating rink and theater. He bought it in 1990 for \$3 million and sold it a year later for \$3.8 million. While he owned the home, Mr. Jennings threw a swank pool party for his neighbors there, featuring an actress dressed up as a hairdresser, on hand to blow-dry guests' wet locks.

Bruce joined his father's company in 1972, at age 23, after dropping out of high school and spending a few years working for the county as a gardener and selling insurance. In 1978, he broke out on his own, forming Jennings Firearms and designing a .22-caliber pistol using his father's stripped-down approach and no-frills manufacturing. Raven employees say that George Jennings, furious over his son's departure, kicked Bruce's Mercedes-Benz in a loud argument in Raven's parking lot. In Bruce's version, Dad tried to kick out the headlights of his Cadillac, not the Mercedes. "It was just a father-and-son fight," unrelated to his exit, Bruce says.

The Jennings .22 quickly became the No. 2 seller in its caliber, apparently leading to the next fracture in the family. Bruce's sister, Gail, and her husband, Jim Davis, reacted with "green-eyed envy," a family friend recounts. So in 1982, George Jennings helped Jim, who was Raven's office manager, start Davis Industries, a gun company that sold a derringer that Mr. Jennings personally designed.

And so the Jennings cartel had begun. Raven had the .22-caliber niche, Jennings had the .22 and Davis had the tiny two-shot derringers. Through much of the 1980s, they thrived, avoided price wars and discouraged anyone who dared come into their market.

Bruce Jennings sums up the old ground rules this way: "I don't attack my father's business, he doesn't attack me and we don't attack Jim Davis. We have no agreements, but there are general etiquette rules you apply to your family. We don't go out of our way to price-compete with each other so all of us wind up with nothing."

All three of the firms, whose low-tech plants are located in nondescript industrial parks scattered outside Los Angeles, use the same spartan approach. Low cost and high production are key. For the big U.S. handgun merchants like Smith & Wesson and Sturm, Ruger, producing guns is a labor-intensive process that yields small quantities,

one reason their average price is \$600 a gun. Constructing just one Colt .45 requires about half an hour. It takes a mere three minutes to completely assemble a Raven, rivals of the company say.

"You can't become any more efficient than us," says Bruce Jennings.

Raven Arms, Jennings and Davis Industries use many of the same suppliers, and often the internal parts of their guns are similar. Unlike standard guns, which use stainless steel, the Raven and its offshoots are made from cheap materials, notably die-cast zinc alloy. Molds form the Raven's key components, the frame and slide. And because the gun is virtually complete when it comes out of those molds, Raven need employ only 20 or so workers.

The zinc alloy used by all three has a low melting point—it begins to distort at 700 degrees Fahrenheit, compared with 2,400 degrees for the stainless steel in quality guns, says a competitor who also uses the alloy. As a result, the Jennings family's wares typically won't withstand much use compared with better-quality guns.

While Davis, Jennings and Raven all have minimal safety devices that block the trigger from being pulled, the pistols don't have other features, such as firing-pin blocks, that help prevent accidental discharge and that often appear on high-quality guns. Lance Martini, a firearms consultant who owns the Accuracy Gun Shop in San Diego, says he once took a tour of the Raven plant with George Jennings, who he says told him the only reason Raven takes the extra step of rifling the barrel on its pistols—a process that stabilizes the bullet path for accuracy—is to avoid federal restrictions on the sale of unrifled handguns.

Officials at the Bureau of Alcohol, Tobacco and Firearms say the Raven .25 fails the "drop test" and can discharge if it is loaded and dropped to the floor. But that isn't a violation of any law, since, under the Gun Control Act of 1968, the test applies only to imported revolvers, not U.S.-made pistols. In fact, there are no safety requirements for U.S.-made guns, giving them the status of one of the least-regulated hazardous products in America.

"On these guns," says Edward Owen, chief of the bureau's technology branch, "they don't do any more to them than they have to to make them work." The family has faced little legal fallout from product liability cases; it has vigorously fought those actions brought against it.

Despite periodic calls for gun control, actual restrictions are few, and are at the state level. Only a few states ban sales of models made by the Jennings companies. Maryland determined the Jennings .22 and .25 were "unreliable as to safety"; it also banned the family's other brands because of insufficient data. Furthermore, South Carolina and Illinois say the three brands can't be sold there because their zinc-alloy frames melt at less than 800 degrees.

Many gun-store owners have decided on their own not to sell the cheap pistols, saying the quality is too poor, replacement parts are too hard to get and the dollar profit per gun is too small. In Los Angeles, at Turner's Hunting and Fishing, clerk Donald Bush nods towards the \$79.99 Jennings .22 and says the store discourages sales of the pocket-pistols. "They tend to jam," he says. "We try to move people up to better quality and higher stopping power. This is a last-defense gun."

Rivals estimate that, all told, the Raven costs \$13 to make but sells to wholesalers for

\$29.75—an enviable 100%-plus gross margin. The margins are estimated to be even better for Jennings and Davis, which sell at higher prices. Bruce Jennings won't comment on the estimates but says that when overhead and other costs are added, "all of a sudden the \$12 to \$13 gun is up to \$30 to \$35."

During the 1980s, as the Jennings family expanded its hold over the low end of the gun market, its internal conflicts increasingly intruded into the business—especially in Bruce's case. He found himself in real trouble—and at risk of losing his gun license—just before Christmas in 1984.

At the time, he and his second wife, Janice, had been separated about six months. During an argument at their home, he grabbed his wife roughly and punched her so hard he broke her jaw. "It was her Merry Christmas," he later told police.

Afterward, Mr. Jennings called Janice and she taped the conversation. In it, Bruce told her how upset he would get if she had him jailed for battery, the police investigator's report says. "Oh, does that mean you're gonna kill me?" his wife asked. "No, I won't kill you—how about if I just break your [expletive] jaw again?" Bruce replied. He said that if she didn't drop all charges, "life is gonna get very unhappy for you, and a lot of bad things are going to happen to you."

Today, Janice refuses to discuss the matter. But over iced tea at the Four Seasons Hotel in Newport Beach, Bruce says, "I was a very hurt person. I lost my cool, and I hit her. You know what they say about hell hath no fury like a woman scorned. My wife had taken all the bonds, the Rolexes, the diamonds and the gold."

Mr. Jennings faced felony assault charges as a result of the incident—and a convicted felon can't hold a license to manufacture and distribute guns. It was at this point that he undertook a series of curious transactions that would lead to yet another brush with the law.

First, Mr. Jennings sold his company's tooling to a newly formed firm, Calwestco, which was supposedly owned by Gene Johnson, a former Jennings office manager. (The factory stayed in the same place—Chino, Calif.—but the sign out front was changed to Calwestco.) Then Mr. Jennings notified the firearms bureau that he was getting out of the gun business.

At least for public consumption, Bruce Jennings was a gun maker no more. Ultimately the maneuvering was unnecessary: He plea-bargained the felony down to a misdemeanor by agreeing to serve 90 days in the county jail, and federal agents ruled his gun license wasn't in danger.

But Mr. Jennings nonetheless stuck with—and expanded on—the new business structure, quickly drawing the attention of federal investigators again.

After serving his time in the San Bernardino jail, Mr. Jennings founded a wholesale company with the old name, Jennings Firearms, and began buying pistols from Calwestco and reselling them to gun distributors. His wholesale business also bought and resold the guns of another company he set up for his wife as part of their divorce settlement—Bryco Arms, named for his oldest son Bryan, who later died of a cocaine overdose.

In 1988, an inspector for the Bureau of Alcohol, Tobacco and Firearms began looking at the Jennings businesses in an unrelated matter. In the course of his examination, he determined that Bruce Jennings essentially controlled Bryco and Calwestco even though neither firm's license listed him.

Mr. Jennings conceded to the inspector that he was, indeed, "the responsible person" for the companies, according to the inspector's report. He said he had simply arranged the companies this way for, among other reasons, tax purposes and as a protection from product-liability suits. Nonetheless, the investigator recommended the gun licenses for every entity except Bryco be revoked on the grounds that Mr. Jennings had "purposely falsified" information to "shield" his involvement. Today, Mr. Jennings adamantly denies he had any ownership in either Calwestco or Bryco or directed their selling practices. He says the firearms bureau "came in with a predetermined idea and tried to make the circumstances fit it."

In any event, four years later no licenses have been revoked. What saved Mr. Jennings from being cast out of the gun industry? A deal between the firearms bureau and the Internal Revenue Service.

In investigating Mr. Jennings, the firearms bureau had also discovered that his business structure was part of what it believed to be a scheme to avoid full payment of excise taxes. In July 1988 the bureau notified the IRS and the two agencies decided the IRS would first pursue the more serious excise-tax fraud case while the bureau delayed further action on Mr. Jennings's gun licenses.

"Our attitude was that if the IRS found tax fraud, we might be talking felonies," says Jack Killorin, an official at the firearms bureau. And that would make the bureau's effort to yank Mr. Jennings's gun licenses a cinch.

According to federal officials familiar with the IRS probe, the alleged excise scheme was simple: The 10% excise tax is levied only on the price charged by the gun maker, not the wholesaler. So Calwestco and Bryco allegedly skirted the normal tax amount by charging artificially low prices when they sold their guns to Jennings Firearms. Then, Jennings Firearms, in its role as wholesaler but not gun maker, sharply increased the price and resold the pistols to other wholesalers, paying no excise tax and reaping big profits.

Calwestco has since closed and sold its tooling to Bryco, which now makes all the Jennings and Bryco brand guns. The IRS case is pending and the agency won't comment. People familiar with the matter say the IRS is seeking \$500,000 in back taxes, plus penalties. Bruce Jennings admits the companies paid a reduced excise tax but says it's a common practice in the industry and the IRS probe "isn't a problem." The problem, he says, is that somebody complained to the IRS. His prime suspect: Jim Davis's brother, John, who denies contacting the agency.

Jim Davis and Bruce Jennings have been jealous rivals in the gun business for years. Bruce Jennings, in fact, calls his brother-in-law "a fat piece of [expletive] with a lousy personality." He pauses for a moment and adds: "But he's a good person with a good heart." One reason for the animosity may be that Jim's business is booming. The popular Davis derringers account for about 25% of Davis's annual production, federal statistics indicate, and they pay off all overhead, letting Jim Davis make pure profit from the rest of the product line, says an individual familiar with his operations.

But Mr. Davis's good fortune also is due to hot demand for the Davis .380. It is especially popular among criminals, according to the bureau of firearms, for its potent firepower and the ease with which it is concealed. The model accounts for about 50% of the company's production. It is called a "Baby 9" on

the street because it approaches the power of a bigger 9-millimeter gun.

In Richmond, Va., now a key supply point for the illegal gun trade in New York and Washington, D.C., the Davis .380 has overtaken the Raven among illegal gun dealers, says Irving Moran, an agent with the bureau of firearms. On the street, the buyer may pay more than triple the normal retail price to avoid required waiting periods, registration and restrictions based on age and felony convictions. A gun "with bodies on it"—street lingo for one that has been used to murder and is vulnerable to tracing—is deeply discounted.

In the case of the Davis .380, fresh out of the box it can fetch as much as \$450 on the street, giving dealers "the highest turn-around on their money," says Mr. Moran.

One person familiar with Davis's operations says the company's most successful products, the .380 and the .32, owe a debt of gratitude to John Davis, Jim's brother. Now 47, John started his apprenticeship in the gun business in 1978 when Bruce Jennings hired him as a machine operator at Raven. Four years later Jim Davis, then the office manager at Raven and a banker by training, persuaded his brother to help him start Davis Industries.

From the outset, the brothers' business relationship was rocky, according to John Davis, who owned 100% of the new business, particularly rankled his brother by refusing to sell him a stake in the firm and by taking away his credit card and company car, deeming them too costly.

Finally in 1987, after years of arguments, John Davis reached his limit and quit the company. "He's not a brother, he's a boss," John says. "It seems like the more money he made, the more distant he became to me."

Over the years, success didn't make Jim a hit with his other employees, either. Some say his lordly attitude was epitomized in the mid-1980s by the company's annual Easter egg hunt: He would look on as workers crawled all over the company grounds to retrieve plastic eggs stuffed with money. Some also tell of a time when he invited them to a barbecue at his home and told them to bring their own wieners. (He ultimately decided to pop for the hotdogs himself.) Nowadays Jim Davis rarely shows up for work at Davis Industries, employees say, preferring to indulge his passion for television and video games at Big Sioux, his Rancho Mirage mansion.

Having freed himself from his brother, John Davis decided to set up his own shop, founding Sedco Industries Inc. with a partner and taking aim at the .22-caliber market that Bruce Jennings had owned for a decade. But he underestimated his rivals: Before long, he met the full force of the Jennings family.

In January 1988, Bruce Jennings phoned John Davis to suggest he should be targeting the .32-caliber niche of Davis Industries, instead of "getting into [Bruce's] pocketbook," according to John Davis's deposition during a lawsuit the family later filed against him.

In a second phone call a few months later, John Davis testified, Bruce interjected a more ominous warning: He said "people had died in 7-Eleven stores over \$100, much less than what I was going to cost him in making this gun." Mr. Jennings admits that he may have mentioned "something along those lines," but says this wasn't a threat.

In conversations recorded by John Davis, some wholesalers said Mr. Jennings had implicitly threatened to cut off dealers who did business with Sedco. Steve Feinberg, the

owner of Euclid Sales, a wholesaler in Ellenwood, Ga., for example, expressed such concerns. "We want to sell everybody's product, but I can't afford to get cut off from them," the wholesaler told Mr. Davis, according to what purports to be a transcript of a tape-recorded call.

Asked to comment for this article, Mr. Feinberg says he doesn't recall the conversation and says Bruce Jennings never suggested he would retaliate.

Mr. Jennings says he conveyed his unhappiness with Sedco to some of his wholesalers because the company, he claims, "was supplying a copy of my gun at a substantially lower price." But he denies threatening any of the dealers.

Sedco had been operating just three months when the family landed its fatal blow: A lawsuit seeking \$45 million was filed against Sedco, John Davis and his partner. The plaintiffs: Bruce Jennings, George Jennings—and Jim Davis.

The suit accused Sedco of illegally copying the Jennings .22 and stealing trade secrets, among other things. It set off a wave of industry gossip, and Sedco's sales dwindled. By the summer of 1989, the company had stopped operating.

In June 1991, a federal judge entered a default judgment and ordered Sedco to pay \$134,000 in damages and attorney's fees. Three months later, John Davis declared personal bankruptcy.

These days, John Davis barely talks to his older brother. He hasn't forgiven him for joining the Jenningses in ruining him. "My brother got caught up in the way the Jenningses lived," he says. "Money became the God."

Rid of Sedco, the Jennings troika seemed assured of reasserting its hegemony over the under-\$100 gun market. But it hasn't turned out that way. Other relatives and family intimates have begun to chip away at the clan's hold on the market, which has fragmented beyond anyone's control. Now, the Raven, Jennings and Davis companies have set upon one another, as they expand into overlapping niches.

The interecine combat started when a nephew of George Jennings formed Sundance Industries in 1989 and began selling a clone of the Raven .25. The same year, Jim Waldorf, a buddy of Bruce's when they were in high school, started up Lorcin Engineering Co. in Mira Loma, Calif., setting his sights on Raven, too. Lorcin's plant manager: John Davis.

Sundance turns out only small volumes, but Lorcin is a bigger threat. It has brought uncharacteristic marketing flair to an industry that remains all but untouched by Madison Avenue. While Raven and Jennings avoid advertising, Lorcin heavily touts its .25-caliber pistol as "the world's most affordable handgun." It has introduced eye-catching innovations like neon-pink grips and camouflage guns.

It has also aggressively targeted the pawnshop trade. At a Cash America pawnshop, located across the street from the J.C. Napier housing project in Nashville, manager David Buck says he does a brisk business in Lorcin's. Pointing to a display of the guns, priced at \$45 each, he says simply: "They're low-dollar guns for poor folks."

Lorcin's sales have soared, apparently clipping Raven's wings. Raven's production, which peaked at about 15,000 pistols a month a few years ago, according to government statistics, later fell to about 8,000 a month. Mr. Waldorf estimates. Today, Lorcin begins shipping its new .380 pistol and is expected to

introduce a .22-caliber in July. "The Jennings family has controlled the market for 20 years," declares Mr. Waldorf. "They're ripe to get picked."

In the face of their first serious competition in 20 years, the relatives that used to play—and price—together are bent on taking aim at one another.

Jim Davis is soon expected to introduce a .22 that will compete head-on with Bruce Jennings' best-seller. Bruce has just cut prices by 14% on his .380 to match the Davis price. Even George Jennings, who hasn't introduced a new product in two decades, considered coming in with a .22 that would have nudged up against his son's turf.

"This end of the market is collapsing," says a distressed Bruce Jennings. "We're just going to have a bunch of unprofitable companies."

"Now," says Lorcin's Mr. Waldorf, "it's a no-holds-barred free-for-all." A simple truth motivates this flurry of activity, he says. There are more poor people than rich people. Cheap is synonymous with volume."

To get new markets, the Jenningses and their rivals are moving up the ladder of firepower with plans to expand into the 9-millimeter segment. This summer, Bruce Jennings will unveil a 9-millimeter gun that, at \$155, will be among the cheapest on the market. "I'm trying to work my way out of this mess," he says.

As for George Jennings, he is leaving the gun business altogether, his son says. That decision was hastened last November by an accidental fire that gutted the Raven factory. But the patriarch has taken steps to let his grandchildren pick up where he left off.

The elder Mr. Jennings has just sold his Raven tooling to a new gun company called Phoenix Arms, the firearms application for which is now pending. Bruce Jennings says Phoenix is equally owned by his ex-wife, Janice, and his three children; by Jim Davis's four children; and by Dave Brazeau, the Raven general manager.

"When Raven burned down," he says, "there was a decision to be made, and the decision was that Raven would liquidate, my dad would retire and the grandchildren would invest in it."

And so George Jennings has ensured that his progeny will perpetuate his legacy, grinding out thousands of cheap pistols that will arm another generation of youth in America's cities.

#### Top crime handguns

(Leading handguns used in crimes 1990-91. Data are based on completed traces of handguns sold after 1986)

Davis	2,676
Raven	2,671
Smith & Wesson	2,523
Taurus	1,717
Sturm, Ruger	1,199
Jennings/Bryco	1,164
Intratec	1,158
SWD	894
Beretta	879
Glock	860

Source: Bureau of Alcohol, Tobacco and Firearms

#### Top pistol makers

(Ranked by share of total pistol production in 1990 of 1.36 million units)

	Percent
Smith & Wesson	16.6
Sturm, Ruger	15.4
Davis	10.5
Jennings/Bryco	10.5
Beretta	9.2
Raven	8.7
Colt	6.9
Firearms Imp. & Exp.	2.4

Arms Technology .....	Percent
Lorcin .....	2.3
Source: Bureau of Alcohol, Tobacco and Firearms.	2.2

[From the Wall Street Journal]

**IN MILWAUKEE, THE RAVEN FINDS ITS VICTIMS**  
MILWAUKEE.—The Raven, and guns like it, have defined the life of 17-year-old Felicia Morgan.

"There is really a single purpose to this gun—to kill people," contends Wisconsin's state attorney general, James E. Doyle.

Ms. Morgan, who now faces the possibility of life imprisonment without parole, is a petite teen who wears her hair in corn-row braids. Her lawyer, Robin Shellow, says she is simply a product of her surroundings.

"Felicia's nerves have been rendered raw by the guns around her," says Ms. Shellow. "She could no longer distinguish the gunfire that killed her friends and relatives from the gunfire for which she is charged. Like Brenda Adams, she bleeds openly and bears witness to the carnage of the inner city."

But George Williams, the father of the slain Brenda Adams, angrily declares there is only one victim, and she is dead. "If it were left to me, I'd blow Felicia Morgan's brains out myself," he says. "The hardest part is to see your kid in a body bag. You don't even get to hug her goodbye."

#### STREET LIFE

For all the horror of the act, Felicia, clutching her jail-issued Bible and a purple diary with a drawing of a unicorn on the cover, seems barely out of childhood. When she gets the chance, she clings to her mother, Priscilla, who is in jail awaiting sentencing for shoplifting. During a recent reunion with her mother in a judge's chambers, her loud, tearful wails could be heard past the walls and in the courtroom. She later penned a note on scratch paper to her lawyer: "Do I get to kiss her goodbye?"

Felicia grew up as a street-wise kid, the middle child among five siblings. Her mother and father eventually split up, and her mother moved in with a cocaine dealer. "He had big guns, like .357s," Felicia recalls.

The girl rarely attended school and drifted among the homes of various relatives; she says she was raped by a landlord when she was 12. Surrounded by crime, Felicia got into varying amounts of trouble herself. Last August some friends stole a Dodge minivan, and later Felicia drove it, hit another car and fled the scene. In October she was caught shoplifting clothes. In a statement to police, Felicia said "if I don't keep my hands where they belong," she would end up in the "danger zone," and, "I will just have to suffer and find out the hard way."

Felicia's mother once used a Raven .25-caliber pistol to try to shoot Felicia's father; she also shot a former boyfriend in the thigh with a Jennings .22. Felicia's eldest brother, Kenneth, carried a Raven in his drug-dealing days. In 1990, he says, he shot two rival dealers with another gun.

Later the same year, Felicia's uncle was killed with a .22-caliber revolver. Two days after the funeral, a cousin was murdered in a drive-by shooting. A few months later, the boyfriend of Felicia's sister was shot with a .38; he's now paralyzed from the chest down.

So perhaps the shock isn't that Felicia Morgan is charged with shooting and killing another teen-age girl with a Raven last October, but that it didn't happen sooner.

At about 2 a.m. on Oct. 26, Brenda Adams stood outside a Golden Chicken outlet, proudly wearing the patchwork-leather

trenchcoat she had been given for her 17th birthday one week earlier. Felicia and a 15-year-old friend, Minuella Johnson, approached her to steal it. Brenda resisted and Felicia allegedly pointed a silver Raven and fired. As she sped away a witness says she bragged, "I shot that bitch."

#### A COMMON THREAD

In this cold city's smoldering ghetto, small firearms flow easily into the hands of users like Felicia. They are a sinister tie that binds generations of inner-city inhabitants, shaping and twisting a multitude of lives. Small-caliber pistols, and the Raven .25 in particular, are the gun of choice for the very young—cheap and lightweight, easily concealed in a pocket and lacking much of a kick. Last year, police in the Milwaukee area confiscated four times more Ravens than any other handgun, according to the state's crime lab.

"This is the gun that kids are using to maim and kill each other," says county circuit judge Michael Malmstadt. "When I talk to kids about their crimes, it's incredible how many times it's a .25, and if it's a .25 you can bet it's a Raven."

But in the brief interlude that followed, she was aiming to turn her life around. In a few days she was scheduled to start a new job at a Popeye's fried-chicken outlet. On Friday, Oct. 25, things began on a hopeful note. But according to court testimony, police reports and interviews, the day unraveled quickly.

In the early afternoon, Felicia drove downtown with a friend, Silas Hampton, first to Milwaukee's jobs bureau and then to Popeye's to complete her application. Felicia says that, as he had often done in the past, Silas gave her his tiny Davis .32 derringer for safekeeping. (Silas couldn't be located for comment.) She stuck the gun into her bra. "The derringer is all the gun a girl needs," she said later in an interview. "A girl shouldn't want to be a hotshot."

#### THE NIGHT UNFOLDS

The pair stopped at a liquor store and then joined Minuella and her boyfriend, Kurearete "K-Dog" Oliver, at a sparsely furnished apartment the boys used as their hangout. The foursome relaxed for a few hours, then split up, and at about 1:30 a.m. got back together and piled into Kurearete's car. They were off for a night of armed robbery.

Tucked into the car's sun visor was a Raven .25, which Minuella had taken from atop her mother's TV set earlier in the day. The mother, Minnie Johnson, bought the pistol three years earlier. "It looked good. It was silver with a wood handle, and the silver attracted me," she says.

The group first came upon a woman wearing a "herringbone," a large gold necklace. Kurearete, 18, handed the Raven to Felicia and ordered the two girls to go get it, Felicia later told police. (Kurearete says Felicia took the Raven on her own.) Before they could grab the necklace, three other assailants beat them to it. The girls came away with only a pair of blue Adidas sneakers.

The four next came upon three girls and a young boy. According to one of the victims, Minuella said, "I have to have that jacket, dog." The girl complied. Felicia jumped out of the car and allegedly ripped a necklace off one of the girls. Then she and Minuella went after the young boy. Minuella took his hat, and Felicia told the boy, "Up the coat, too, I want it for my little brother." She then held the Raven to his head and according to the victim, told him, "Count to five, because your life is about to end." Felicia denies saying this.

With Kurearete at the wheel, they sped away so quickly their car nicked a white station wagon. Enraged, Kurearete picked up the Raven from the arm-rest and fired at the wagon through a window, according to Felicia. (Kurearete denies this.) Felicia told police this was the first time she realized the Raven was loaded.

#### A CHANCE ENCOUNTER

As Kurearete was driving along, Minuella noticed Brenda Adams, who had emerged from a house party and was waiting for a ride. According to Felicia, Minuella said: "I want that trench," eyeing Brenda's birthday present. On a second drive by, Felicia and Minuella stepped out, and Kurearete again handed Felicia the Raven. A witness says Minuella wasted no time: "I'm asking you politely, bitch, come up out of that coat!" Brenda resisted, and Minuella punched and kicked her, dragging her across the street and beating her against a lamppost.

Two young men tried to come to Brenda's aid, but Felicia stepped in, wielding the pistol and telling them to back off. "Bitch gotta gun!" one of the men screamed three times in a row. Shots rang out from across the street as someone apparently tried to break up the fight. Felicia pulled out the Raven and, at point-blank range, fired once with her eyes closed, she later told police. The bullet pierced Brenda's left shoulder near the neck, and she slumped to the ground. More shots erupted from across the street. Minuella and Felicia were still tugging at the coat when Kurearete pulled up in the car and yelled, "Get in!"

Minuella, trenchcoat in hand, ran for the car, but Felicia lingered. She reached down and grabbed Brenda's necklace, but dropped it when she saw the blood running down the girl's left shoulder. More shots were fired from across the street, and Felicia broke for the car. Felicia later told her probation officer that she then paused, spun around toward Brenda and pulled the trigger again, though Brenda suffered only one wound.

In the light drizzle, Brenda lay dying in a pool of blood on the sidewalk, her carotid artery severed. Around her were a few buttons that has popped off her blouse during the struggle.

#### POLICE BLOTTER

The next evening the two girls turned themselves in after seeing the crime reported on the evening news. When Felicia showed up at the police station, she was wearing the blue Adidas and the black and white coat stolen the night before.

Initially, Felicia confessed to the murder. But at a later court hearing to determine whether she should be tried as an adult, Felicia's testimony changed substantially. She said she was confused and intimidated when she signed the confession; then she denied ever having held the Raven. She said she had pulled out the Davis derringer that Silas had given her, but had never fired it.

The juvenile court decided to try Felicia as an adult. She is expected to be charged soon with armed robbery and first-degree intentional homicide and will enter her plea shortly thereafter. Felicia's lawyer will argue that she suffers from post-traumatic stress as a result of overexposure to urban violence.

Minuella has been convicted of first-degree intentional homicide and armed robbery and received the maximum juvenile sentence of 10 years. Silas wasn't charged, but Kurearete awaits trial on charges of felony murder and armed robbery and could get 40 years in prison if convicted. In an interview in a holding

cell, Kurearete, wearing orange prison-issue coveralls and black thongs, insists he had no involvement in any crime, other than to place the Raven in the sun visor. "A girl didn't have to die, and they didn't have to rob," he says. "They both had leather coats when they did it."

#### AN EASY SALE

On the blighted streets of Felicia's neighborhood, the Raven still beckons. Her brother Kenneth, who says he no longer deals drugs, came under fire in October while walking down the street, though he doesn't know who did the shooting. He says he recently bought his older sister a Raven at a gun store for \$89. He figures she needs protection.

Tina Harris, one of Felicia's best friends, is about to buy a Raven, too. She wants to wear fine clothes without fear of being robbed. "I'd rather end up in jail," the 16-year-old says grimly, "than spend the rest of my life looking over my shoulder—or be dead." For her part, Felicia says she is sorry, though not responsible, for Brenda's murder. "I'd give the world if I could change what happened," she says. "Sometimes I feel I should have died that night, too. I know how it feels to have a family member pass. I don't think Brenda's family will get over this too fast."

The silver Raven that killed Brenda will be introduced as evidence at Felicia's trial. As the bailiff puts handcuffs on her wrists to take her back to detention, Felicia stands quietly, seemingly lost in a daydream. Then she whispers, "I wish guns would stop being in the world." —ALIX M. FREEDMAN.

[From the New York Times, Mar. 10, 1992]

#### PISTOL PACKS GLAMOUR, POWER AND REPUTATION AS A MENACE

(By Larry Rohter)

MIAMI, March 9.—To Mike Solo, marketing and sales director at the Intratec gun plant here, the Tec-9 semiautomatic pistol the company makes is a "high-spirited" firearm ideal for home protection or target practice and a "fun gun" avidly sought by weekend shooters and collectors because Intratec knows how to "give people what turns them on."

But law-enforcement officials and gun-control advocates around the country take a decidedly different, and much dimmer, view of the 9-millimeter assault pistol, with the ventilated 5-inch barrel and 32-round magazine that is manufactured at Intratec's small factory just off the Florida Turnpike and sells for only \$260. Citing statistics that indicate the Tec-9 is confiscated in crimes at a rate higher than any other weapon, compared to the number in circulation, many officials single it out as one of the biggest menaces on America's streets.

"We are running more and more into these exotic weapons, which serve no useful purpose," said LeRoy Martin, Superintendent of Police in Chicago who is leading a campaign that urges the Illinois Legislature to ban the Tec-9 and weapons like it. Futuristic and intimidating in appearance, as well as inexpensive, the gun has been a favorite of drug rings.

"In law enforcement, they are not even in our arsenal because of the hazard they present to innocent people," he continued. "They are designed to spray whole groups of people, and they can be equipped with extra clips for extra firepower, or can be modified in a short time to be fully automatic."

On another level, Intratec, which also makes the Tec-22 "Scorpion" handgun and

has just introduced the Protec-25 line of pocket-sized pistols, is typical of a whole group of gun makers. Over the last decade, as long-established general weapons manufacturers like Smith & Wesson, Colt and Remington have watched their sales and profits decline, Intratec and several other small, specialty manufacturers looking for specific niches among the gun-buying public have flourished.

Raven Arms and Davis Industries of California, for instance, have established themselves as the leading manufacturers of cheap pocket-sized pistols, though Intratec hopes to seize a portion of that market with its newest line. The Sentinel Arms Corporation found success with "The Striker," a 12-shot, 12-gauge shotgun first used against guerrillas in southern Africa. Other small manufacturers have made their mark by making copies of weapons originally designed by Uzi and other foreign gun companies who have found their access to the American market diminished by import controls.

But the emergence of the inexpensive 9-millimeter semiautomatic pistol based on paramilitary design, and the ability of companies like Intratec to ride that trend to prominence and prosperity, is one of the most startling developments in the gun market over the last decade. Sales of Intratec's military-style pistols, at more than 30,000 last year, were not large compared to the overall figure of two million handguns, but that production fed what has become an energetic corner of a generally flat market.

The assault pistols have appeal among a certain breed of gun enthusiasts. "I've owned one model or another since they first came out," Jerry Ahern, a writer and gun collector in Commerce, Ga., said of the Tec-9. "I like it because it's a cute-looking gun, a neat little thing that's not your typical handgun. It's pleasant to go out and shoot once in a while."

Mr. Ahern, who writes science fiction and adventure novels and also reviews guns for weapons publications, added that he has several friends who also own the Tec-9. "This gun is primarily used by good, honest citizens," he said. "If needed in home defense, it looks scary enough, that the intruder would probably take off and run and you would not have to shoot at anybody."

Nevertheless, the nation's police forces strongly condemn the Tec-9's easy availability and popularity. Police officers say they increasingly find themselves forced to go up against the weapon on the streets, where it is valued by crack dealers and street gangs willing to pay markups of 300 percent or more to get their hands on one in states or cities, including New Jersey and New York City, where its ownership is outlawed or severely regulated.

"The Tec-9 is the weapon of preference for drug dealers here in New York City," said Lieut. Kenneth McCann, co-commander of the New York Police Department's Joint Firearms Task Force. "It gives the impression of being a fully automatic Uzi or machine gun, and that's the way it is interpreted on the street. We're coming across them more and more frequently." Beginning April 1, adding to already stringent handgun controls, the ownership or possession of the Tec-9 and certain other assault weapons will be illegal in New York City.

In other large cities around the country, the police say the story is much the same. Dallas police reported confiscations of more than 575 of the pistols over the last five years, more than any other assault weapon, in a recent tabulation of weapons used in

crimes. In the nation's capital, the Tec-9 and a clone manufactured by A.A. Arms, a company eager to cash in on the weapon's popularity, accounted for more than half the 172 assault weapons seized by the police in crimes in 1990 and the first nine months of 1991. Chicago police report that they seized 88 Tec-9 pistols in criminal cases in the first eight months of 1991, as against 27 during the same period of 1990.

#### BAD REPUTATION SEEMS TO BRING BETTER SALES

The Tec-9's disproportionate role in crime is suggested by Federal gun tracings. Though they involve only a small percentage of crime weapons, the tracing, requested by law-enforcement agencies, suggest the mix of guns being seized.

In 1990 and 1991, Federal authorities traced 1,546 Tec-9 pistols. In those two years Intratec sold around 26,000 Tec-9's, and since the gun began to gain popularity, in 1985, fewer than 100,000 have been made.

In contrast, during that same period tracings were run on 9,599 Smith & Wesson handguns. But in those two years close to one million Smith & Wesson handguns were sold, and tens of millions are in circulation.

This chorus of public alarm and disapproval does not seem to discourage people at Intratec, founded under another name in 1980 by a family of Cuban exiles that also own two gun shops here. On the contrary, company executives see their weapon's bad reputation in law-enforcement circles and the news media as a useful marketing tool.

"I'm kind of flattered," Mr. Solo said when he was asked about condemnations of the Tec-9. "It just has that advertising tingle to it. Hey, it's talked about, it's read about, the media write about it. That generates more sales for me. It might sound cold and cruel, but I'm sales oriented."

Mr. Solo acknowledged that "your guns end up in the hands of all types of people," including criminals, but said that the primary market for the Tec-9 is "John Q. Public, the average Joe," looking for an affordable firearm. "We feel that we are trying to give them the most for the least," he said. One Intratec advertisement shows a father helping his small son shoot an assault pistol.

"It's a plinking gun," Mr. Solo said. "You can go out and take the finest Smith & Wesson or Ruger and fill up your magazine, and if it's staggered it will have 18 rounds. Whereas our magazines have 32 rounds, so you can fill it up and plink a little bit more, and at a suggested retail price of \$260, the cost will also be a lot less."

Mr. Solo said that the Tec-9 is also used by several police anti-terrorism teams around the United States. In addition, he said, Intratec has sold the weapon to police and military forces in several third world countries, who hope its intimidating appearance will deter street demonstrations and insurgent political movements, thereby averting bloodshed.

#### JUST ANOTHER GUN OR A SPECIAL MENACE?

Still, the Tec-9 also comes equipped with features that give it special appeal to professional lawbreakers. Intratec's sales brochures, for example, boast that various models of its weapons are made with Tec-Kote, a special finish that "provides a natural lubricity to increase bullet velocities" and "excellent resistance to fingerprints."

"Don't you find that almost obscene?" Chief Martin asked. "You can use this weapon and discard it, and police can't even find your fingerprints. That's what they are saying in a veiled way." Mr. Solo responded that

the coating does not actually prevent fingerprints, and is intended only to retard the corrosive effect of body oils.

Gary Kleck, a criminologist at Florida State University who wrote "Point Blank: Guns and Violence in America" (Aldine de Gruyter, 1991), contends that the Tec-9 has been unfairly singled out as part of a longstanding tendency by the press and the police to label certain classes of weapons as "bad guns." Take away its oversized magazine and its aura of intimidation, he said, and the Tec-9 is just another gun.

The rise of the Tec-9 coincided with a more general increase in sales of semiautomatic pistols of all kinds, Dr. Kleck said. "It is no more lethal than other semiautomatic handguns, or handguns in general," he said. "Criminals may like it for reasons of style, but nothing in its technical attributes sets it apart from dozens of other models," and so "there is no earthly reason to eliminate it."

Dr. Kleck and many groups opposed to gun controls also argue that the statistics kept by police forces and the Federal Government have been manipulated to overstate the use of the Tec-9 and other assault weapons in crime. They say that assault weapons, which are hard to conceal, are infrequently used in crime and that the overwhelmingly majority of such weapons are owned by law-abiding citizens.

Gun-control advocates disagree. They have focused on assault pistols as a special menace, and the Tec-9 in particular. "You don't pass legislation gun by gun, but this is the worst thing out there, the absolute epitome of the problem," said Bernard Horn, legislative director for Handgun Control Inc., a leading lobbying group for gun control, based in Washington. "It's ideal for urban warfare, and it's representative of a whole class of weapons that we would like to see eliminated."

According to the Federal Bureau of Alcohol, Tobacco and Firearms, which tracks the use of weapons for unlawful purposes, the rise of the Tec-9 in popularity among criminals has been both rapid and recent. In 1986, the pistol ranked only sixth among assault weapons traced to crimes, and in 1987 it was fifth on the list. In each year since 1989, the Tec-9 and clones have ranked first among assault weapons traced to crimes.

#### FROM NONDESCRIPT PLANT, A PISTOL WITH GLAMOUR

Intratec executives admit that any limitations on production of the Tec-9 will be a severe blow that will lessen their profitability. The company produced more than 14,000 Tec-9 pistols in 1991, Mr. Solo said, up about 2,000 from 1990, and expects to slightly increase its production this year.

Intratec's founder, Carlos Garcia, has been making the Tec-9 in one form or another since the early 1980's, when he acquired rights to the weapon from a Swedish designer who had made improvements on a submachine gun originally designed for the South African Government. But Mr. Solo said the weapon owed its initial burst of popularity in this country to the "Miami Vice" television series, which featured characters using the Tec-9 in gunfight scenes.

Because of its futuristic and menacing design, the gun has also appeared in movies like "RoboCop" and, most recently, "Freejack." Mr. Solo credits much of the Tec-9's popularity to that flashy and intimidating look. If "the big boys," as he calls the major gun manufacturers of New England, were to take the same aggressive approach, he argues, they might find it easier to remain competitive.

"A lot of them are very archaic in their thoughts, their machinery and their marketing," Mr. Solo said of the traditional companies. "They haven't made anything sexy, with any pizzazz. They keep it low key because our government, if we do anything exciting, it's like boom, they're down all over us."

Intratec's plant, a gray building with no logo or company name to identify it, occupies 30,000 square feet and employs about 50 people, most of whom are Cuban-Americans or immigrants or refugees from other Latin American countries. A plant is being modernized to improve design and production of the Tec-9, the Tec-22 and the Protec-25, which Mr. Solo described as a small "night-table gun" for use against intruders or by police officers "who want a backup piece and don't have a lot of money to spend."

The company is worried enough about the prospect of laws that would forbid manufacture of the Tec-9 to have surreptitiously lobbied Florida legislators. But the publicity given to gun-control bills in Congress and to incidents in which gunmen have committed mass murders may actually work in the company's favor, at least for now.

"The wrath of the government, the only thing it has done is increase our sales," Mr. Solo said, laughing at the paradox. "What people are starting to realize is, 'Geez, I really want that firearm, but if I can't get it anymore, I better buy it fast.' I'm sorry to say, whenever anything negative has happened, sales have gone tremendously high."

#### SOLD FOR \$157, MORALS NOT INCLUDED

Responding to an inquiry made through Mr. Solo, Mr. Garcia declined to be interviewed for this article. But on rare occasions in which he has agreed to discuss his company's products with local reporters, he has rebuffed all assertions that the Tec-9 should be banned because, unlike other weapons made for hunting or target shooting, it serves no sporting purpose.

"I know some of the guns going out of here end up killing people," he told The Palm Beach Post in a 1989 interview. "But I'm not responsible for that. The ultimate user is you the public. It is up to you how responsible you are in using that firearm, your car or what have you."

More recently, Intratec has had great commercial success with the Tec-22 "Scorpion," an even cheaper assault pistol with the same marked paramilitary appearance. The weapon comes with a standard 30-round magazine that can be "jungle clipped" with another magazine for 60 rounds of immediate firepower, features a grip that can stow another 50 rounds, and breaks down into only three parts.

But the strongest selling point of the Scorpion, like the Tec-9, is its price. The Tec-22 went on the market in 1988 with a list price of just under \$300, but sales did not take off, so Mr. Garcia decided in 1990 to cut the retail price to \$157.

That decision was rewarded almost immediately. Production of the Scorpion, only 5,700 in 1990, skyrocketed to more than 17,000 last year, the first year in which the Tec-22 out-sold the Tec-9. This year the company expects another significant sales increase.

"You've heard the expression 'a chicken in every pot'?" Mr. Solo asked. "Well, we want to get a Tec-22 into as many hands as we can."

#### Assault weapons in crime

[Top 5 assault weapons, as defined by legislative proposals, traced after seizure by law-enforcement officials in 1990 or 1991. Only a small percentage of crime weapons are traced.]

Tec-9: Intratec and imitations ..... 1,546

M-10, M-11: Various producers ..... 1,167  
Mini-14: Sturm, Ruger ..... 884  
AR-15/M-16: Colt and others ..... 850  
AKS/AKM: Chinese and other foreign producers ..... 802

Source: Bureau of Alcohol, Tobacco and Firearms.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

#### TAX FAIRNESS AND ECONOMIC GROWTH ACT

The PRESIDING OFFICER (Mr. ROBB). Under the previous order, the Senate will now resume consideration of H.R. 4210, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is to be recognized to offer an amendment relative to drugs. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I think the distinguished Senator from Alabama has a statement, and I think it is only a 4- or 5-minute statement. With the general agreement of the Senator from Oregon, Senator PACKWOOD, and Senator BENTSEN, the chairman of the committee, if I could yield or if we could go out of order for a few moments to allow Senator HEFLIN to make that statement, would that be agreeable?

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. We have no objection.

The PRESIDING OFFICER. Without objection, the Senator from Alabama is recognized.

#### THE HOLLINGS ECONOMIC PLAN

Mr. HEFLIN. Mr. President, let us be realistic about three things:

First, any economic recovery package that calls for a tax increase will be vetoed.

Second, the veto cannot be overridden.

Third, a compromise will have to be developed if an economic recovery package is to become law.

In light of the current state of our national economy, couched as it is in the context of a Presidential election, it is not surprising that the debate surrounding such issues as peace dividends, tax cuts, and job growth has grown divisive, sharp, and fiercely partisan. While a few voices make the argument that the best economic plan is no plan, the American people know that this is not the case. We cannot

stand by and simply hope for the best. People are looking to their government for leadership; leadership not directed at short-term partisan gain, but leadership aimed at restoring a strong economic base.

Surprisingly, there has been a lack of discussion thus far among the candidates about the deficit and runaway Federal spending. Although nearly 80 percent of voters say that the budget deficit is a very important issue this year, we are not hearing much about how to help the economy without adding to the tremendous debt that continues to plague us. Thomas Jefferson once wrote that "the principle of spending money to be paid by posterity, under the name of funding, is but swindling on a large scale." Our forefathers knew that the American people deserve a sound, fiscally responsible economic plan. This is our challenge.

That is why I am today asking that my colleagues take a serious look at the plan of our friend from South Carolina, Senator HOLLINGS. While most economic plans actually increase the deficit, this plan contains specific proposals for stimulating the economy without increasing taxes and without increasing the deficit. While his proposal is not by any means an end-all for solving our economic and budgetary woes, it is, in general, a good idea, and a good start toward prioritizing spending. In short, it is the kind of fiscally responsible plan to which we must give serious consideration if we are to meet the current economic crisis head on.

Senator HOLLINGS' blueprint for economic stimulation calls for broad savings and investment. In the savings category, the plan calls for a 10-percent reduction in the civilian work force over 3 years, but only through attrition. Additionally, it calls for a freeze in international discretionary spending through 1993 at the 1992 levels. Domestic discretionary spending would also be frozen at 1992 levels, but would exempt all entitlements, including Social Security, military and civil service cost-of-living adjustments, Medicare, Medicaid, supplemental security income, food stamps, and veterans programs. Defense spending would be at a level of \$10 billion below the 1993 cap and intelligence activities would be reduced by \$2 billion. The total first year savings realized here would be \$24 billion.

Meanwhile, on the investment side, outlays from the above mentioned savings are divided between the private and public sectors. The investment in our business sector includes a much needed investment tax credit, very similar to the legislation I introduced later last year. Before its repeal in 1986, the investment tax credit proved to be one of the most effective incentives to private sector growth. Along with the investment tax credit, Senator HOLLINGS recommends accelerated

depreciation, deferment of taxes on individual retirement accounts, real estate investment, capital gains, and a research and development tax credit, all of which would total \$15.8 billion in the first year.

This emphasis on enhancing the competitive position of our Nation's businesses, coupled with a renewed commitment to research and development, is a particularly appealing aspect of this plan, since, as I have stated many times previously, we help the economy by helping the small businessman. Likewise, current investments in research and development help to ensure our future economic well being by holding and increasing our competitive advantage.

Public sector investment under the proposal includes a renewed commitment to our financially strapped State and local governments through revenue sharing programs. It also provides increased funding for the Head Start and Women, Infants, and Children Programs, technical training, manufacturing, and community health centers, the National Science Foundation, and advanced technology programs, which should include vitally important NASA projects. Programs such as the Space Station, planetary exploration, and the space shuttle would suffer irreparable damage if subjected to the domestic discretionary spending freeze. Any credible vision of the future must continue our commitment to a strong space program and the benefits its investments bring us. The importance of the space program aside, the plan's total first-year public sector investment would total \$8.2 billion.

Studies show that our major economic competitors have been investing a much larger share of their national wealth on public investments such as research and development, and enjoying a higher annual rate of productivity growth as a result. The Hollings plan recognizes this fact, and ensures that we do not neglect scientific research, the bedrock of our national competitiveness. These increased investments also total \$24 billion, and are completely offset by the savings in outlays. Thus, most importantly, there is not one penny of increase to the national deficit.

There are many good points to the latest tax reform bill approved by the Finance Committee. As is always the case, the hard work of this committee, guided by the steady leadership of its chairman, our distinguished colleague from Texas, is evident throughout the bill. There are, however, some provisions that must be carefully considered.

For example, the legislation calls for a \$300-per-child tax credit. As much as anyone, I want to help the average taxpayer, but what will honestly help the typical American family in the long run is to make sure our financial base

is strong. Our immediate goal should be a plan that will stimulate the economy without increasing the deficit. To do this we must find common ground with the President and move forward on the ideas we all think to be wise for our future. A serious effort at finding this common ground is the Hollings plan, which stresses private sector investment and goes along with the defense cuts outlined in the President's State of the Union Message.

Our Nation is at a crossroads in terms of our financial history. Never before have we experienced the enormous debt in which we now find ourselves mired. As a government, we must decide that this Nation will either pay off this debt or allow our children and grandchildren to suffer the consequences of living in a country indebted to the world. One way we can do this is by looking at how we spend the American people's money.

By all measures, Federal spending increased dramatically between 1965 and 1991. Adjusted for inflation, total Federal spending increased almost continuously over the period. Net interest, which is, alarmingly, the most rapidly growing budget category, has increased significantly along with the mounting Federal debt. The Hollings plan takes into account the fact that unchecked Federal spending combined with a runaway deficit is fiscally irresponsible, and dangerous. His plan to shift the focus from spending to investment is a welcome shift, one that does not continue along the path of economic frustration, but, rather, provides hope for a sound fiscal future.

Admittedly, the debt is a result of some misguided and politically expedient economic policies, but now is not the time to point fingers. Now is the time to make the tough decisions with which the public entrusts us. To do otherwise is to abdicate our responsibilities as elected officials.

As important as deficit and spending reduction are, we cannot ignore the fact that people around the country are suffering grave economic hardship and real pain. We know our military force structure must accommodate the realities of a post-cold-war world, but millions of real men and women will be displaced by defense downsizing in the coming years. The Hollings plan takes the very real need to provide assistance to those who are suffering and who will suffer into account through its public sector investment initiatives—again, without adding a single cent to the deficit.

I continue to believe that any system which strays too far from the most basic economic principles cannot long survive. For this reason, there must be an ongoing examination of all the programs that we spend money on. It is time to look at the Nation's balance sheet and see what is wasteful. At the same time, we must invest our money

wisely, in human capital, infrastructure, education, and research like that conducted by NASA and the Department of Defense. The plan put forth by my friend from South Carolina contains many ideas that together represent a coherent, logical, and common-sensical approach toward accomplishing these important goals that we all seem to agree upon.

As I stated earlier, I do not claim that the Hollings plan is perfect. It appears to me, however, to be a reasonable and sincere attempt to address the problems which threaten our fiscal security, as well as a bold first step toward getting our economy on the right track while helping those in need. There is little question as to what our responsibilities are or what the American people deserve. The only question is whether we are willing to respond affirmatively and accept this necessary but difficult task.

Henry Adams is credited with having once said that "politics consists [of] ignoring facts." If this is true, then it has to be time, now more than ever, for us to abandon politics. Our economic survival depends on it. I commend Senator HOLLINGS for his recognition of this fact and for his wise efforts at getting our economic house in order.

**THE PRESIDING OFFICER.** Under the previous order, the Chair recognizes Senator PRYOR.

**Mr. PRYOR.** Mr. President, it is my understanding at this time that the Senator from Oregon has a statement he desires to make. I yield to him for that purpose.

**Mr. PACKWOOD.** I thank my good friend from Arkansas. My statement is relatively brief. It is one that I have made in the Finance Committee before, and elsewhere, and it is this:

The bill before us, at best, might be of some modest help, very modest, for a short period of time, to a very few people. It will not be any major catalyst to the economy that somehow makes us move from a 1-percent growth to a 4- or 3-percent growth or a 2-percent growth. Nor will the bill that the President submitted, nor will the bill that the House of Representatives passed; they all fail the test of, "Will they help the economy in the long run grow?"

We all understand what is going on. Each party would like to get credit for passing something that can be held out as making the economy move. If by chance the economy moves—and if it does, it will be totally unrelated to what we pass—we can at least take credit for having said, see, we told you that if we passed our bill, the economy would move. In an economy approaching \$6 trillion, Mr. President, the bill that we are talking about is barely a flea bite when we need something significantly different than any of us were thinking of.

We all know, from the huddled conversations we have and in the whispered meetings, what needs to be done. We have, over the last quarter of a century, spent too much and saved too little, and we need to tilt in the direction of savings, investment, and capital formation. We need to tilt in the direction of investing in machines that produce family wage jobs, that keep us competitive in the world market. And all three of the bills that have been given to us—the President's bill, the bill that the Ways and Means Committee sent out and passed in the House, and the bill that we have here—all tilt in the direction of more consumption, rather than great savings.

There was a moment when I thought perhaps that we might have moved in the Senate Finance Committee. We had one meeting in our hearing room in which we very frankly discussed among ourselves what we knew needed to be done. We all nodded our heads and said, yes. But, for whatever reason, we have not gone forward on that.

I am not here to lay blame or criticism, but I do know that the opportunity is here to do it, and the mood is here to do it. So long as it can be done hand-in-hand—I think it can—I think the administration would be ready to extend a hand and say, OK, if you are prepared to say with me—this is the President talking—that the bill we are going to pass to move us toward savings is not going to get the economy going by November. It has taken us 25 years to get where we are, and it is going to take 3, 4, 5, 6 years to turn this ship around and start moving in the other direction. But if Congress is willing to start now so that I can quit harping—this is the President—at Democrats in Congress and they can quit harping at me, I am willing to move forward.

I think that opportunity is here. I think he would take it, if we would offer it. But we would have to tell the public it is not bitter medicine but a change of philosophy. We are going to try to discourage blatant consumption and try to encourage savings. Interestingly, it does not have to be just the argument of encouraging savings at the top. Whether that is a capital gains tax or otherwise, the bulk of the money in this country is still in the middle class.

One of the reasons we are still a relatively prosperous country is not because we have great numbers of rich; actually the numbers of rich in this country, the quantity, are relatively modest. It is that we have millions and millions of people making \$15,000 or \$20,000 to \$50,000 or \$60,000 or \$70,000, and that is where the great middle-income category falls. If that category increases its savings just a modest amount per capita, it makes an immense difference in the savings in the country.

And we could pass a bill that would gradually start to turn the country in that direction. But, as I say, none of the bills that we have before us are going to do that.

I understand the politics of what we are doing. I am a big boy, and I have been at this business a long period of time. The President is going to veto any bill that has a tax increase in it and say: I have told you I am going to veto this bill. You have a tax increase and it is going to be vetoed. It only passed the House 221 to 210. Clearly there are not enough votes to sustain it in the House, as it will be here.

So if a tax increase bill is passed, and the President vetoes it, we will say the Democrats tried to raise taxes. In the bill, on the other hand, is a surtax of 10 percent on millionaires, and a tax increase of significant percentage for much lower-income people, not low income but lower than millionaires. If that is vetoed, the Democrats can say: You see, the Republicans favor the rich. And each side will have staked out its claim to an issue, and perhaps there will be no other bill this year, which is unfortunate, no other major bill.

There are going to be minor bills to pass, the extenders, research and development credit, low-income work response, and I hope the employer-provided legal assistance and employer-provided educational assistance will pass. And there may be an extension of unemployment this summer, depending upon the status of the economy. Which is a tax bill, of course.

Then we have the perpetual debt ceiling, which will come along before we recess this year. Who knows what may get attached to that. But this may be the only so-called tax bill that goes by. Each party will have staked out its advantageous position again, the Democrats saying the Republicans refused to tax, the Republicans saying the Democrats want to raise everybody's taxes. We will see how that plays out in November.

But the discouraging part is while each side of us are standing to top our respective hills, looking down at the valley from a very defensible position, we are missing the opportunity, both of us, to climb down off of our hills and join hands in the valley and do something that would really make this Nation turn around over 2, 4, 6, or 8 years.

I will conclude by saying this: I am disappointed in what we have. I will vote against it. I was disappointed in the House bill. I thought the President's proposals were modest, at best, but they were the ones that would have any slight help to the economy. I thought they were the best of the three. But none of them are long-term bills. So my ultimate hope is, I guess, that we get through with this bill as quickly as possible, get it to the President and get it vetoed.

Whether we want to vote to override the veto or not, that is up to the leadership in the House and Senate. Get it behind us and then hope it is not too late, Mr. President, that we can work on a bill that really does something for the economy, for the remainder of this century, instead of each of us—it is mutual—seeking partisan advantage, trying to pump it for all it is worth and convince the voters we are the ones that should be retained in November.

So I am discouraged, but I have not given up hope. I think we can put this bill behind us and get on to greater things. I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I have to agree with my friend from the State of Oregon. This is not a perfect bill. It does not solve all the problems. It will not turn around a foundering economy overnight.

This did not happen to us overnight. It has been building up for a number of years. One of the problems we face is that, in view of that kind of a deficit and that kind of a debt, we put into effect in 1990 a budget agreement that puts certain constraints on us, and I am committed to staying within those limits.

I told staff and I told the members of the committee that we are going to stay within the budget agreement. We are not going to bust that budget. We are going to have a revenue-neutral bill, and over 6 years I want to see some reduction, modest as it might be, but some reduction in the deficit. And that is what we have done.

I agree that the President's bill is not something that turns it all around overnight either. But I could not help but listen to the President denounce this legislation, talking about a major tax increase, a major tax increase. Not a word about the major tax cuts. But that is what it is. It is a balanced bill in that regard. For every dollar of a tax increase you have a tax cut. The cuts and increases just go to different people.

What we have done target the tax cuts to those folks who have been hurting the most—middle-income families with children, that is what the surveys showed. A temporary cut? No. The House version is temporary, with \$200 and \$400 cuts for 2 years paid for by a permanent tax increase. We are talking here about a permanent tax cut for those families and for those children.

I know inside the Beltway a lot of people say that \$300 per child is peanuts; that it really does not count. You say that to a family that reads the supermarket ads, looks for the coupons, trying to decide which store they go to get the best buy for the groceries. Go say that to the family that has a child running a fever and as they go to the hospital or to the doctor they know

they are not just making a medical decision but a financial decision. Say that to those who have an 18-year-old they are trying to decide where they can afford to send him or her to college. They look at the financial aid programs before they look the quality of the college. They think a permanent \$300 credit for each child is important, and it is important.

This bill is not something that turns it all around. I wish we had that. I agree on that point with my friend from Oregon. He is an able member of the committee.

But I think it is an important first step toward fairness, a little more fairness in the tax system.

There will be other bills in other years and we will continue to fine-tune this system and try to work it out as we go along. But what we are facing now is we are trying to get something done, and the President says we have to have it back by March 20. That means we have to move this thing along. That is record time for a legislative body to try to consider tax legislation.

Time is short. And for that I hope that we complete our work here in the Senate in very short time, and for that reason I shall oppose all amendments to this bill. We are hearing of many proposed amendments. If we tried to deal with all of them we would be on the floor months from now. We have to draw a line. And the only fair line is an absolute line; no amendments will be accepted.

Some of these proposed amendments will lose revenue and in some of those instances no offsetting revenues are being provided. And those are subject to 60-vote points of order and those points of order will be made.

I see my friend from Arkansas with an amendment. He is a very valued member of the committee, deeply concerned about health-care costs, each facet of it. An important facet is pharmaceuticals. He has a concern about how to correct it.

Frankly as I look at the tax benefits of section 936, I do have some concern about that. They talked to me the other day about having twice as much in tax benefits as the employees' salaries in Puerto Rico. That worried me. But I must say to try to do those things to control the price of the pharmaceuticals, to tie those two things together and utilize the Tax Code for that purpose gives me concern. And I have a very difficult time seeing the Tax Code used for such purposes.

But I shall look forward to hearing his comments and his presentation.

The PRESIDING OFFICER. Under the previous order the Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, before I proceed, I first ask unanimous consent that the

following members of my personnel and Aging Committee staff be given the floor privileges for the duration of consideration of the pending amendment: Messrs. Chris Jennings, Steve Glaze, Mike Hodson, and John Coster.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I have enjoyed listening to the distinguished chairman of the Finance Committee this morning in his comments and also his statement yesterday. We have enjoyed listening to my good friend and neighbor across the hall Senator PACKWOOD from Oregon, who is a former chairman of the Senate Committee on Finance, talk about this bill which is now the business of the U.S. Senate.

I think sometimes we get lost in the shuffle and not talk about some of the positive aspects of legislation that we are dealing with. We have a tendency here to take a major bill like we have here. I do not know how much this one weighs, Mr. President, but it is a major bill. I guess H.R. 4210 looks like it is several hundred pages in length, very complicated, and many times we have a tendency here as legislators to pick out those two or three things we do not like and stress those things and try to make that our message as to why we oppose them. There are some measures in this legislation that I think are very, very constructive, very constructive, and I would like to applaud the chairman and my colleagues on the Finance Committee for including them and making them a part of this legislation that we are now considering.

For example, pension simplification is something that we have been striving to accomplish around this Congress for the last decade. And for the first time in my memory we have a pension simplification that is supported across the board by large and small business alike, by the employer, the employee, and it is an integral part of this legislation that we are going to consider and ultimately vote for hopefully today, or maybe tomorrow, or Friday. I applaud my chairman and our colleagues for including this legislation in this package.

We have something else that many of us have worked for for a long time. Today when Lee Iacocca or Donald Trump or Sam Walton write a check for their insurance premium they get to deduct that premium 100 percent from their taxes. It is a cost of doing business. Today for the first time since my memory we now have a 100-percent deduction for that self-employed individual who is not a major corporation, to deduct that insurance premium 100 percent where today it is only 25 percent. Once again I applaud my chairman, I applaud my colleagues on the committee and all who have had a part of making that an integral and a critical part of this legislation.

Mr. President, there is something else, and I have a great deal of personal

pride in this, and that is the taxpayers bill of rights—28 sections of the Tax Code which will give further rights and further opportunities, I might say, to the American taxpayer in dealing with the tax collector, the Internal Revenue Service.

This is a very constructive part of the Tax Code. It is also a critical part of the concept of fairness, of the fairness that we think this tax bill represents.

Mr. President, I voted for this proposal as it came from the Finance Committee to the Senate, and I hope to vote for this proposal when we get ready to send it to the conference and ultimately to the President's desk.

But there is one more critical element I think that will make this a very good piece of legislation, and that is an amendment that I will be offering at the appropriate time known around the Senate and the House, as S. 2000.

I am taking S. 2000 this morning, Mr. President, with a few modifications and at the appropriate time I will send it to the desk as an amendment to the tax bill. S. 2000, will for the first time in a long time, address the issue of cost containment in medical service delivery.

Mr. President, specifically, my amendment does not deal with doctors and it does not deal with hospitals. We will deal with that I assume in another day at a later hour and I want to be a part of that debate and I hope that I will be a constructive part of that solution. My amendment deals solely with one sliver of the medical delivery situation in America, and that is the cost of pharmaceutical drugs.

By offering that amendment aimed at containing skyrocketing prescription drug prices, we are challenging all of our colleagues to go beyond talk and start acting on the issue driving the health care reform debate—health care costs.

Joining Senators COHEN, SASSER, BAUCUS, BURDICK, CONRAD, LEAHY, EXON, KERREY, METZENBAUM, WELLSTONE, BRYAN, and myself in this endeavor are representatives of an extremely broad and diverse coalition of over 40 national representatives of rural communities, businesses—small businesses, large businesses—consumers, the elderly, children, minority populations, advocates of those afflicted with disease, unions, health insurance agents, health care providers, and just plain, good American citizens.

It is a very diverse group of Members of Congress, Mr. President, that join us this morning, and the organizations that join us are also very diverse. We all share in this instance a common bond for we represent those constituents who can no longer keep pace with prescription drug prices that consistently and mercilessly triple the general inflation rate. Most importantly, however, we represent the people who

in our country can no longer tolerate these outlandish pricing practices and who are today fed up and sickened by the inaction of the Federal Government to address these and other health care costs.

Mr. President, it is long past due that we, in the Congress, took some serious steps toward containing the health care cost crisis that confronts this Nation. How many times—how many times—in those town meetings, how many times in those townhalls, how many times in the stores and streets of America that we represent do we tell our constituencies day after day, and week after week, that we are going to do something about containing your health care costs?

Well, Mr. President, as to one aspect of that health care cost, this is delivery day. This is the day for which we have been waiting to begin delivering to those constituencies our promise to contain health care costs.

To me it makes sense to start this reform process by dealing with the component of the health care system that is inflating the fastest. It may come as a surprise to some of my colleagues, but certainly no surprise to our constituents—particularly our elderly constituents—that for more than a decade, prescription drugs have led the way in price escalation in health care delivery services.

From 1982, Mr. President, to 1992, 10 years, while the general inflation rate was just 46 percent in that decade, prescription drug prices increased 142 percent.

Just last year, immediately after the enactment of the Medicaid rebate law and after the drug manufacturers of America said that they had received our message loud and clear, the drug industry once again slammed the American consumer's pocketbook one more brutal time. In 1991, while the general inflation rate last year was 3.1 percent, Mr. President, the drug manufacturers of America raised the cost of prescription drugs in America 9.4 percent, three times the cost of inflation.

These continuing price hikes mean, that in 1980 prescription drugs costing \$20 will cost the average American \$121—or a 500-percent increase by the year 2000—if we are not bold enough and courageous enough to reign in the cost of the pharmaceutical manufacturers who are making exorbitant prices.

Mr. President, last July—I believe this is the July issue—July 29, 1991, if we took a poll across America and asked the American citizens, "Well, what business do you think is the best business to be in, what is the most profitable business in America?" some people might say, "Well, it is McDonald's." Some might say, "Well, maybe I could be a Mercedes dealer; maybe I could make a lot of money. Those are expensive cars."

Well, they are all wrong, Mr. President. Fortune magazine, July 29, 1991, said the manufacturers of pharmaceutical drugs is America's most profitable business. There it is on the cover of Fortune magazine.

Mr. President, I would only say to that that today those profits are being made at the expense of the most vulnerable members of our society. The most vulnerable Americans in our country today are giving to the drug manufacturers that title of being America's most profitable business.

Today, we have an opportunity to make a stab at cost containment because we know that today \$67 billion are being spent for pharmaceutical drugs. We know that \$145 billion are going to be spent by the year 2000. What this means is that in the United States, we spend \$270 for every man, woman, and child a year for prescription drugs and most of this is not covered by insurance, it is not covered by Medicare, it is coming out of the pockets of our citizens least able to pay.

Mr. President, a lot of people say that the Fortune 500 companies make all the money.

In 1990—let us look at those figures if we could—the average rate of profit for the Fortune 500 companies in 1990 was 4.6 percent.

Here is the chart, Mr. President. I believe it is in the blue, 4.6 percent. That is what the Fortune 500 companies made.

Well, what about the drug companies, what about the pharmaceutical companies that make that necessity of life, not a luxury, but the necessity of life. Let us see how they are getting along—15.5 percent, that was their average profit in the year 1990. And, Mr. President, if it keeps going that way, you are going to see their profits in 1992 set an all-time record in the amount of profits that they are making once again off of those least able to pay.

Now how do they make these enormous profits? How do they become so profitable? I want to examine that for a moment.

One, by outright price gouging of our American citizens who can least afford the medications—the elderly, the poor, and the other vulnerable parts of the American population.

Mr. President, the industry tells us time and time again that it needs these big profits to pay for the cost of researching, developing, and marketing their drugs. In the last 30 years, we have bought that line. We have told the drug companies: Yes; it is going to be the policy of our Government and of our country to give you tax writeoffs for research. We are going to encourage you to go out there in your laboratories across this country and across the world and find the cure to cancer, to AIDS, to Alzheimer's and Parkinson's disease, and all the other ailments and diseases that we face. That

is going to be the policy of this country. We are going to give the approval of the Food and Drug Administration; we are going to give you a 9-10-year patent, where you have no competition; we are going to give you research and development grants so you do not have to pay taxes on those dollars that you use for research. And then, after that, Mr. Drug Company, we are going to do something even better for you. We are going to give you the mother of all tax breaks, section 936.

Mr. President, a lot of people know what section 936 is: A lot of the budgeteers and a lot of the staff people on Joint Tax; a lot of the people who work for the Finance Committee and work for the Finance Committee members. But really, beyond this building and beyond this very small community here on Capitol Hill, very few people know about section 936.

Mr. President, I would like to tell you how section 936 helps the drug companies. Because once they have taken advantage of a patent with no competition, Food and Drug Administration approval, tax breaks for research in developing the drugs, then they go to Puerto Rico and they manufacture the drugs. They make the drugs there that they sell in our country.

And every time they hire a Puerto Rican citizen to work in one of those drug plants, they get a tax credit of \$70,788. For every employee they hire, they write it off their taxes. It is a tax writeoff. They pay average salaries of \$26,471; but they writeoff for every employee \$70,788.

This does not come from the Aging Committee; it does not come from my staff; it does not come from AARP or senior citizens or any of these other organizations. It comes from the Department of Treasury, the U.S. Department of Treasury. Right there are the figures, and I think those figures are accurate.

Enormous profits today are being made, unconscionable profits are being made by the drug companies, who have taken advantage of the Tax Code of this country, and today should be and must be a day of reckoning. It is a day of fairness that our chairman has talked about, and other colleagues have talked about, embodied in this Tax Code.

Today I would like to talk about fairness to the taxpayer and the consumer, who today in our country are paying the highest prices of any other industrialized country. We look at Spain, France, Italy, and the EC countries: Belgium, United Kingdom, and others. Look who once again is paying the highest price for drugs. You guessed it: The good old American consumer. We are paying 40 to 60 percent more than they are paying in Spain and France and Belgium and the EC countries. We are paying an enormous amount more in our country.

I showed this chart to one of my business friends the other day. I said: Mr. So-and-So, you are a businessman; you are well known. Somehow or another, we cannot get the pharmaceutical companies to come to the table. We can get the doctors every now and then to come to the table; we can get the hospitals every now and then, or the HMO's, to come to the table. But we cannot get the pharmaceutical companies, we are making all the money, to come to the table. How can we get their attention?

He said: Let me see this chart again.

So I got it back out of my case, and I said: OK, here it is again.

He said: Why do we not go to Spain and buy our drugs in Spain? American drugs, made in America or Puerto Rico, sold to Spain for 60 percent less. Why do we not go there and buy our drugs in Spain or France or the EC, and bring them back and sell them?

Someday, that may be the case. Someday, that may be a point that we ought to consider. Especially if we are not successful today, maybe we would consider something like this.

Some people have said the good days for the drug companies are not quite what they used to be. They are saying the good days for the drug companies are waning and we are in a recession. But first, pharmaceuticals are the only recession-proof industry we have in America. It is the only recession-proof industry we have, the pharmaceutical industry. The reason is pretty simple. It is because of the necessity of the pharmaceuticals, the drugs that we have to consume to stay alive and to keep our quality of life.

How are the drug stocks going to do in the future? Recently, Mr. President, Fortune magazine—once again, I am quoting Fortune, February 24, 1992, just a week or 10 days ago, page 29. Fortune magazine says this:

Are the good times finally ending for the pharmaceutical stocks? Don't be fooled. Analysts contend that the tremendous earning power enjoyed by big drug manufacturers make the stocks an excellent long-term investment.

There we have it, Mr. President; Fortune Magazine saying go out and buy those drug stocks because they are going to continue to make exorbitant profits. And they are going to make those exorbitant profits unless we in Congress have something to say about it. Right now, I hope, today, we have something to say about it.

How does the industry spend all of these profits that they make? Do they go out here and use all these research dollars that we are giving them, tax free? How do they really expend these profits?

First, the average CEO of the drug companies has a pretty good deal as far as the salary. Their salary is \$1.56 million a year. I believe we do have that salary on the charts—\$1.56 million. But

the kicker in that, Mr. President, is they get about \$3 million a year in stock options and in other benefits that do not show up here on the salary chart.

The average elderly household income, I might say, Mr. President, is a mere \$8,700 a year, quite a difference from the average CEO of a major manufacturing drug company.

To add a little insult to injury, the drug companies today are forcing Americans to pay the highest price for drugs. In fact, as our chart showed a while ago, these drugs that we pay the highest price for of any other industrialized country, these drugs are paid for twice. They are paid for twice because the American taxpayer is paying for their research and development, and then the American taxpayer is paying 40 to 60 percent more when they go to the drug store to buy their drugs.

We have a very rare opportunity today at the first attempt at cost containments. We have many other facts and figures and charts that I am sure, during the course of this debate, we are going to be talking about.

I am going to also have printed at the right time some other recent articles and other—as it relates to this very, very shameful and inexcusable system where we have allowed the drug companies to get by with doing what they have done.

But my proposal today—and I am going to try to describe it in just a few paragraphs—is a very simple proposal. It is a carrot-and-stick approach to make prescription drugs more affordable.

This legislation gives drug manufacturers access, continuing access, to the billions of dollars in nonresearch tax credits that they already receive each year from the American taxpayer. But they have to give something back in return, and this is what they have not done in the past. What they have to give back in return is their commitment to keep drug price increases at generally the general rate of inflation.

A few drug companies have recently stated that they will keep their price increases this year to the inflation rate. I applaud them. Merck is one of them. If they do, these manufacturers, under the legislation, will have full access to section 936 tax credits.

They can still go to Puerto Rico. They can still take a \$70,000 tax credit if they hire a Puerto Rican citizen to work in one of those plants. They can still go out there and research in their laboratories across America and all across our country to help find the cure for the diseases of our generation.

However, if these manufacturers continue to gouge and if they continue to charge exorbitant prices and if they continue to make exorbitant profits, much more than the cost of inflation, they are going to lose a portion of their section 936 tax credits. We ask the

question: Why should Americans be forced to get hit on the front end with outlandish price increases and to also be hit on the back end with increased taxes to subsidize the most profitable business in America?

Second, my proposal does something else. The savings that we are going to create from the reduction in section 936 tax credits would be used as an offset to extend the 100-percent self-employed health insurance tax credit and, ultimately, if there is anything left from that extension, for deficit reduction. Under the current law, as we have talked about, self-employed individuals can only deduct 25 percent of the cost of buying health insurance. Senator BENTSEN's health bill, which is included in the tax package, increases that deduction to 100 percent for 1993 and 1994. We want to extend this further, Mr. President, and we are going to use the savings from the 936 allocation for that purpose.

This legislation does a third thing, Mr. President. It establishes the Prescription Drug Payment Review Commission. The Federal Government buys or pays for over \$20 billion in prescription drugs each year. In spite of this, we have very little information on how we cover, finance, or pay for prescription drugs under these programs. We have a ProPAC for hospitals. We have a PPRC for physicians, and now, if this legislation is successful, we will for the first time have an advisory committee within our system to advise our Government on drug costs.

The Commission would be charged with studying why drug costs in other industrialized countries are so much lower. Also, we would authorize the establishment of 15 Medicare outpatient demonstration projects so that we can make drugs more affordable to the populations who can least afford them.

Mr. President, I know what the arguments of the drug companies are going to be today. I have heard those arguments before. First, they are going to come and say this is price fixing. Mr. President, that is not true. That is a myth. We do not fix prices.

This legislation very simply says that if you continue to raise your prices much more than the cost of inflation, you are going to lose some of your tax credits in Puerto Rico. That is all it says. It is not price fixing.

Mr. President, even if they lost their tax credit in Puerto Rico, it is still the most generous tax credit; it is still the greatest, as we say, mother of all tax credits that we find today in the Internal Revenue Code, and specifically the pharmaceutical industry is that segment of our economy that is profiting most from it.

Second, we are going to hear a great deal about discrimination; that this bill discriminates against the drug industry; that we are discriminating against the pharmaceutical industry

that is researching and trying to find a cure to many of the ailments and diseases we have discussed already.

Mr. President, I would like to talk a second about discrimination. I would like to tell you who is being discriminated against under the present system. The American consumer is being discriminated against, Mr. President—the American consumer who is paying for the research, who is paying for the development, who is paying for the marketing of their new drugs when they go on the market, and then the American consumer is having to come back and pay 40 and 60 percent more for their drugs, more than any other industrialized country. Mr. President, if they want to talk about discrimination that, in my opinion, is raw discrimination, and this is something our legislation is going to address.

Finally, let me say that we believe, and believe firmly, that without this amendment being added to the overall tax package that is before the U.S. Senate today that we will have failed, that we will have failed to begin addressing the cost containment battle that we must begin today. If we actually do not seize upon this opportunity, Mr. President, I am going to predict that our constituents out there are going to finally say, "These people are just talking about cost containment. They are just talking about helping me with my drug prices. They are just talking about exploding health care, and when they get a chance to do something about it, they do not do it."

Mr. President, each of us stands on the floor of the Senate, and when we are back in our town meetings, when we are on the streets and highways and byways of America, we are saying constantly that we want to address this problem, we want to address that problem. But this is a rare opportunity not to continue addressing but to begin doing something about an issue that is crying for leadership. It is crying for us to begin cost containment.

Mr. President, there are other speakers who are on the floor, and I know they have other schedules. At this time, I am going to yield the floor to my good friend and early cosponsor of this legislation Senator SASSER of Tennessee.

The PRESIDING OFFICER. The Chair asks the Senator, does the Senator from Arkansas yield from his time?

Mr. PRYOR. I am yielding to Senator SASSER for the purpose of a statement only.

Mr. SASSER. Mr. President, I ask recognition in my own right.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The Chair reminds the Senator from Ten-

nessee that no amendment has been offered.

Mr. PRYOR. Mr. President, I ask unanimous consent that we have a quorum call and that I be recognized immediately when the quorum call is called off.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from Arkansas retains the right to the floor.

Mr. PRYOR. Mr. President, I yield to my friend, Senator SASSER of Tennessee, for the purpose of making a statement only.

The PRESIDING OFFICER (Mr. GORE). The Senator from Tennessee [Mr. SASSER] is recognized without the Senator from Arkansas formally yielding the floor.

Mr. SASSER. Mr. President, this morning I am pleased to join with my good friend from Arkansas to offer my support for this very important amendment. I think all of us in this body and indeed millions of people across this country owe a debt of gratitude to the distinguished junior Senator from Arkansas who has worked tirelessly on the problem of skyrocketing prescription drug prices in this country.

Senator PRYOR has developed an expertise, an insight on this issue which I think is probably not surpassed in this body. I am pleased that we now have an opportunity at long last to consider what we believe is a measured and reasonable response to a very serious problem in this country, a problem, in my view, that simply must be addressed, one that we have failed to address for all too many years.

I would also like, Mr. President, to commend the ranking member of the Senate Special Committee on Aging, Senator COHEN, for his active involvement in helping to craft the amendment before us today. This is not a partisan issue. Out-of-control prescription drug costs affect the health and lives of millions and millions and millions of people in this country. I would add that the amendment before us today represents a bipartisan solution to a serious problem.

I would be derelict, Mr. President, if I did not recognize the work of the distinguished chairman of the Finance Committee, Senator BENTSEN. He brings to this body one of the finest pieces of tax legislation that has come before us in many years. The tax legislation Senator BENTSEN has brought from the Finance Committee will start down the long track of trying to re-

dress the inequities that have crept into our Tax Code over the past 10 or 12 years.

In addition, he has included in this bill before us today a number of important health insurance reform provisions. The chairman of the Senate Finance Committee has crafted legislation which, in my judgment, will, when enacted into law, improve access to health insurance for literally tens of millions of Americans. I think the efforts of Senator BENTSEN and those of his committee represent a major step toward the goal of enacting comprehensive health care reform legislation, legislation that will allow access to affordable quality health care for every American.

But this morning I want to make sure that my colleagues understand one thing: When we, as a nation, finally move to enact comprehensive health care reform legislation, we will still have to find a way to rein in excessive prescription drug prices. None of the proposals presently before Congress, even those in the field of health care which include a broad system of cost controls, will provide a means to halt what is now unbridled price inflation being sponsored by the pharmaceutical manufacturing companies of this country.

Who among us can doubt that we have a serious problem on our hands? If you doubt it, then I would ask my colleagues to go to a pharmacy, go to a drugstore in a middle-class, lower middle-class area anywhere in this country and just stand in front of the pharmaceutical counter for 2 or 3 hours and watch the people as they come in to buy these prescription drugs. Watch the elderly as they come in and buy them. Look at their faces when they see the price. I have seen it with my own eyes, Mr. President. When they are presented with the drug and the cost of it, I have heard them say, "I can't afford it." "I can't take it." I have seen them become angry. I have seen them become indignant. And I have seen them just walk away meekly and say, "I just can't afford to pay the bill."

I would like to take a look at some of the charts that were discussed just a moment ago. I think this chart tells the whole story. If we look at general price inflation in this country from 1982 to 1991, we find that general price inflation rose at a level of 46 percent during this 9-year period—a very significant increase in inflation.

But let us look and see what happened to prescription drug prices during this same period of time. While the general rate of inflation was 46 percent, prescription drug prices went up 142 percent, a 300-percent increase over the general rate of inflation.

That, Mr. President, I think is unconscionable. Prescription drug prices have led the way in health care cost inflation during the past several years. Of that there can be no doubt.

These are not just abstract numbers. Since Senator PRYOR and I introduced the Prescription Cost Containment Act last November, I have held many hearings across my native State of Tennessee, many meetings, and discussed the problem with my constituents. When I bring up the topic of prescription drug prices, the response is instantaneous. It is emotional. It is heartfelt. There is instant anguish and in many cases instant anger. When Tennesseans hear how much prices have increased relative to prescription drugs, they are not surprised. It only confirms what they already know, what they have been trying to cope with for years and what we in Washington have refused to deal with until now.

When I tell them that prescription drugs represent the highest out-of-pocket medical expense for three out of four elderly people in this country, they are not surprised to hear that. Only a small fraction of older Americans have insurance which offers them any kind of coverage for prescription drugs. So what we find is that the overwhelming majority of older Americans in this country have to pay these prescription drug prices out of their own pockets.

Many, many people, too many people, both young and old, but particularly the elderly, have had to make the harrowing choice between paying for the medicine that their doctor says they need or, in many cases, buying food or paying their heating bill in the winter. I have discussed this with people who made that very choice, and they have told me: I cannot take all the medications that the doctor prescribes for me because I cannot afford them, so I will take half of what he prescribes or I will take a third of what he prescribes. I will cut down on food intake, reduce my grocery bill so I can afford the prescription drugs, or maybe I will not heat one or two rooms in the house so I can buy the drugs my doctor prescribes and still meet expenses on the Social Security check that I get.

Mr. President, I want to demonstrate to my colleagues, by use of a second chart, the profits that are being made by the pharmaceutical manufacturers in this country. We see here the profits of all of the Fortune 500 companies. If we look at the profits of the top 10 drug companies we see they are 3 times as high as those of the Fortune 500 companies. No wonder Fortune magazine, as Senator PRYOR said a moment ago, is still advising, buy pharmaceutical stocks; they are a good buy.

No wonder when their profits are three times higher than those of the other Fortune 500 companies.

In fact, Mr. President, I am advised that the prescription drugmakers' profits in 1990 were twice as high as that of the second most profitable industry in this country.

And there is something that separates the prescription drug manufac-

turers from other manufacturers of other items. It is that they have a captive market. When you have high blood pressure, when you have a serious arthritic condition, and your physician says you must have these prescription drugs, else your life might be in danger, else you are going to live a life of extended pain, then you have no choice. It is not as if you are going in to buy an automobile, and say, well, I will not buy an automobile this year or next year. I will make the old one do. Or I will take public transportation. When you have to have this life-giving medication, then you simply have no choice and you have to fork over. I think that is what we are seeing here—is advantage being taken of a captive market.

Mr. President, I find when I talk to the people in my State and they learn that the drug industry receives billions of dollars in nonresearch tax breaks, money that like their prescription payment comes out of their own pocket, they wonder why in the world is the Federal Government subsidizing the enormous profits of drug companies. They ask me why is it taking us here in Washington so long to figure that out? They want to know why we have not done something about it.

Simply put, the people of this country know very well; they know all too well about a serious flaw in our health care system. They know firsthand that we are dealing here with an industry that is out of control. They are demanding, the people of this country, action by the Federal Government. They deserve immediate action to confront the spiraling costs of health care which they alone have no means to control. What happens if we do not find a way to put some kind of brake on these present prescription drug prices?

Mr. President, I want to turn to this third chart here which will indicate to us what is going to occur. If prescription drug prices continue to increase at the rate that they are presently increasing, we in the United States will pay more than double the amount paid in 1990 for prescription medicines. By the year 2000, we will be paying \$145 billion a year in this country for prescription drugs. I would suggest that we as a nation simply cannot afford an increase of that magnitude.

I would submit that the amendment that we will be voting on sometime today or tomorrow will go a long way toward keeping outlays for prescription drugs under some degree of control. Everybody I think in this body knows about the problem of drug price inflation. All you have to do is get out among your constituents, talk with them, meet with them, and ask them about the problem of health care. One of the first things that will come up is the escalating costs of prescription drugs.

I invite my colleagues to go back and read your mail. Open up those envelopes and read them. They come to me many times written on lined paper, written by the hand that is elderly, obviously. They talk about the problems of trying to pay for their prescription drugs. We have all heard about it in the letters that come in, those on fixed incomes, from elderly constituents, from working families who might have a child who has to have some special medication or pharmaceutical.

These are American citizens who find they can no longer afford to make ends meet when faced with ever-escalating prescription drug prices, prices which are rising far faster than their income, prices that are going up much faster than the general rate of inflation.

Yes, we will be hearing a lot here today from the pharmaceutical manufacturers. They are a powerful lobby; no question about it. A lot of what we are hearing I would ask my colleagues to listen to with great care.

I am reminded of the story I heard one time when I was a young lawyer. I was listening to a great trial lawyer, I say to my friend from Arkansas, argue a motion before an elderly judge. And after the brilliant trial lawyer had concluded the judge recessed court briefly. I went back to his chamber to discuss the matter with him. I said, "Judge, the lawyer we just heard out here is the most brilliant I have ever heard. How can you resist the logic that he presented to you today?"

I will never forget. The old judge looked at me, and he said, "Well, Jim, I always listen to him with great interest but follow him with great caution."

I urge my colleagues today as these arguments come before us in behalf of the pharmaceutical manufacturers to listen to them with great interest but on behalf of your constituents follow them with great caution.

The amendment that is offered today by my friend from Arkansas, myself, and others is really very simple. First it reduces the section 936 possessions tax credit for drug manufacturers who raise their prices above the general rate of inflation. If they control their prices, keep them with the general rate of inflation, then they take full advantage of section 936 as they are doing now. And it uses the money saved to extend the 100-percent tax deduction of the self-employed beyond the 2 years already provided for by the underlying bill.

Second, this legislation before us today establishes a prescription drug payment review board to study U.S. drug prices. We have heard our friend from Arkansas tell us how prescription drug prices here in the United States are much higher than any place in Europe, and interestingly enough, many of these drugs are interchangeable. These drugs are manufactured one place or another and they go across country boundaries.

Many of these drug manufacturing companies are multinationals. Yet we find that we are paying here in the United States much, much more than they are paying all across Europe.

So this prescription drug payment review board which would study U.S. drug prices would make recommendations on ways to contain drug costs here in the United States.

Third—I think this is important—the legislation authorizes a 15-site, 3-year Medicare prescription drug demonstration program. This would develop information that I think would be exceedingly valuable to us as we move down the road of trying to develop health care reforms that will lead to better health care that is more affordable for all of our citizens.

Fourth, the legislation directs the Secretary of Health and Human Services to document the total amount of subsidies that the Federal Government provides to the drug industry, and to make recommendations on how we can better restructure our investment in pharmaceutical research and development.

I would also like to direct the Secretary of Health and Human Services to determine just how much of research that we are going to hear so much about this morning is done by the private pharmaceutical manufacturers, and how much is done through Government grants, and how much is done out here at the National Institutes of Health.

The amendment before us does not call for price controls. It does not call for a compulsory drug licensing system. It will not put drug companies out of business. This amendment is a measured and responsible approach. It deals directly with a part of our health care system that is inflating the fastest, that is the most difficult for the most vulnerable of our citizens to afford. It demands our most urgent attention.

I say to my colleagues that it is time for us to decide who we are going to listen to. Are we going to listen to our constituents, who face these life-threatening choices everyday, or are we going to listen to the siren song of the drug manufacturers, who continue to profiteer at the expense of American consumers? Why? Because we let them do it.

Mr. President, I think we owe a debt of gratitude today to the distinguished Senator from Arkansas for bringing this matter before this body. It was he who had the patience and courage to begin these investigations at the outset. It was he who has compiled an enormous amount of data to substantiate the necessity for the legislation that is before this body today.

I thank my friend from Arkansas. It is a pleasure to collaborate with him on this very, very important amendment. I shall stand with him today as this matter is debated.

Mr. President, I yield back to my distinguished friend from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. PRYOR. Mr. President, let me give a general picture of the landscape. I am about to send the amendment to the desk, and I am going to ask unanimous consent that following the amendment in the RECORD a list of about three modifications that this amendment encompasses be printed. For example, where the revenues would go from the reduction in the 936 tax program, a little explanation of Prescription Drug Policy Review Commission, the fact that funds for the Commission are authorized, not appropriated, and then a couple of other items.

Then, I will yield the floor, Mr. President, and let other people speak. It is my understanding, that there will not be an attempt for a second-degree amendment. So we are going to proceed further with this.

#### AMENDMENT NO. 1708

(Purpose: To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes)

Mr. PRYOR. Mr. President, at this time I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 1708.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 866, before line 15, insert the following new part:

#### PART VIII—DRUG COST CONTAINMENT

##### SEC. 2291. SHORT TITLE.

This part may be cited as the "Prescription Drug Cost Containment Act of 1992".

##### SEC. 2292. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) although prescription drugs represent one of the most frequently used medical care interventions in treating common acute and chronic diseases, many Americans, especially elderly and other vulnerable populations, are unable to afford their medications because of excessive and persistent prescription drug price inflation;

(2) between 1980 and 1990, prescription drug price inflation was triple the rate of general inflation, and in the first half of 1991, prescription drug price inflation increased even faster, exceeding 3½ times the rate of general inflation on an annualized basis;

(3) because of the limited availability of private or public prescription drug coverage

for the elderly, prescription drugs represent the highest out-of-pocket medical care cost for 3 of 4 elderly patients, surpassed only by costs of long-term care services;

(4) prescription drug manufacturers continue to make enormous profits on the backs of the elderly, poor, and other vulnerable populations that are unable to afford their medications;

(5) the Federal Government and American taxpayer provide substantial subsidies to the pharmaceutical industry in the form of tax incentives, tax write-offs, and grants for non-research activities;

(6) for example, in 1987 alone, the pharmaceutical industry received a section 936 tax credit of more than \$1,400,000,000, and such credit is estimated to have yielded over \$2,000,000,000 in tax breaks in 1990 to such industry; and

(7) in addition, there is a need to determine whether Federal subsidies are used in the most efficient manner by the pharmaceutical industry to develop drugs which represent true therapeutic advances over those products already on the market.

(b) PURPOSES.—The purposes of this Act are—

(1) to insure that elderly patients and all Americans have access to reasonably-priced pharmaceutical products;

(2) to establish a medicare outpatient prescription drug benefit demonstration project and trust fund;

(3) to provide for the establishment of the Prescription Drug Policy Review Commission and a study of the impact of a pharmaceutical price review board on containing price inflation on prescription pharmaceutical products in the United States;

(4) to provide for a study on how Federal tax credits and subsidies and market exclusivity given to the pharmaceutical industry can be used to modify an individual manufacturer's pricing behavior and research priorities; and

(5) to provide the Federal Government with information on drug prices in other industrialized nations.

#### SEC. 2293. REDUCTION IN POSSESSIONS TAX CREDIT FOR EXCESSIVE PHARMACEUTICAL INFLATION.

(A) IN GENERAL.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end the following new subsection:

“(1) REDUCTION FOR EXCESSIVE PHARMACEUTICAL INFLATION.—

“(1) IN GENERAL.—In the case of any manufacturer of single source drugs or innovator multiple source drugs, the amount by which the credit under this section for the taxable year (determined without regard to this subsection) exceeds the manufacturer's wage base for such taxable year shall be reduced by the product of—

“(A) the amount of such excess, multiplied by

“(B) the sum of the reduction percentages for each single source drug or innovator multiple source drug of the manufacturer for such taxable year.

“(2) MANUFACTURER'S WAGE BASE.—For purposes of this subsection—

“(A) IN GENERAL.—The manufacturer's wage base for any taxable year is equal to the total amount of wages paid during such taxable year by the manufacturer to eligible employees in Puerto Rico with respect to the manufacture of single source drugs and innovator multiple source drugs.

“(B) ELIGIBLE EMPLOYEES.—The term ‘eligible employee’ means any employee of the manufacturer (as defined in section 3121(d))

who is a bona fide resident of Puerto Rico and subject to tax by Puerto Rico on income from sources within and without Puerto Rico during the entire taxable year.

“(C) WAGES.—The term ‘wages’ has the meaning given such term by section 3121(a).

“(3) REDUCTION PERCENTAGE.—For purposes of this subsection—

“(A) IN GENERAL.—The reduction percentage for any drug for any taxable year is the percentage determined by multiplying—

“(i) the sales percentage for such drug for such taxable year, by

“(ii) the price increase percentage for such drug for such taxable year.

“(B) SALES PERCENTAGE.—The sales percentage for any drug for any taxable year is the percentage determined by dividing—

“(i) the total sales of such drug by the manufacturer for such taxable year, by

“(ii) the total sales of all single source drugs and innovator multiple source drugs by the manufacturer for such taxable year.

“(C) PRICE INCREASE PERCENTAGE.—The price increase percentage for any drug for any taxable year is the percentage determined by multiplying—

“(i) 20, times

“(ii) the excess (if any) of—

“(I) the percentage increase in the average manufacturer's price for such drug for the taxable year over such average price for the base taxable year, over

“(II) the percentage increase in the Consumer Price Index (as defined in section 1(g)(5)) for the taxable year over the base taxable year.

“(D) TOTAL SALES.—

“(1) DOMESTIC SALES ONLY.—Total sales shall only include sales for use or consumption in the United States.

“(2) SALES TO RELATED PARTIES NOT INCLUDED.—Total sales shall not include sales to any related party (as defined in section 267(b)).

“(E) AVERAGE MANUFACTURER'S PRICE.—The term ‘average manufacturer's price’ for any taxable year means the average price paid to the manufacturer by wholesalers or direct buyers and purchasers for each single source drug or innovator multiple source drug sold to the various classes of purchasers.

“(F) BASE TAXABLE YEAR.—The base taxable year for any single source drug or innovator multiple source drug is the later of—

“(i) the last taxable year ending in 1991, or

“(ii) the first taxable year beginning after the date on which the marketing of such drug begins.

“(4) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) MANUFACTURER.—

“(1) IN GENERAL.—The term ‘manufacturer’ means any person which is engaged in—

“(I) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

“(II) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

“(2) CONTROLLED GROUPS.—For purposes of clause (i)—

“(I) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the

preceding sentence, the term ‘controlled group of corporations’ has the meaning given to such term by section 1563(a), except that ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

“(II) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subclause shall be based on principles similar to the principles which apply in the case of subclause (I).

“(B) SINGLE SOURCE DRUG.—The term ‘single source drug’ means a drug or biological which is produced or distributed under an original new drug application or product licensing application, including a drug product or biological marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

“(C) INNOVATOR MULTIPLE SOURCE DRUG.—The term ‘innovator multiple source drug’ means a multiple source drug (within the meaning of section 1927(k)(7)(A)(i) of the Social Security Act) that was originally marketed under an original new drug application or a product licensing application approved by the Food and Drug Administration.

“(5) SPECIAL RULES.—For purposes of this subsection—

“(A) DOSAGE TREATMENT.—Except as provided by the Secretary, each dosage form and strength of a single source drug or innovator multiple source drug shall be treated as a separate drug.

“(B) ROUNDING OF PERCENTAGES.—Any percentage shall be rounded to the nearest hundredth of a percent.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

#### SEC. 2294. MEDICARE OUTPATIENT PRESCRIPTION DRUG PROGRAM DEMONSTRATION PROJECT.

(a) IN GENERAL.—Subject to the availability of appropriations as authorized in subsection (f), and not later than October 1, 1992, the Secretary of Health and Human Services (hereinafter referred to as the “Secretary”) shall establish no less than 15 demonstration projects in counties (or other geographic areas) located in different States in rural and urban areas. Each of the counties (or other geographic areas) designated shall have a significant proportion (as determined by the Secretary) of individuals eligible for medicare benefits under title XVIII of the Social Security Act.

(b) PURPOSE.—(1) The purpose of demonstration projects conducted under this section is to assess—

(A) the impact on cost, quality of care, and access to prescription drugs of developing (in each geographic area) a medicare outpatient prescription drug benefit using various forms of benefit design and reimbursement policies, and

(B) the impact on cost and quality of care of extending coverage of outpatient prescription drugs to medicare beneficiaries served by community health centers.

(2) The partial purpose of at least 5 of the demonstration projects is—

(A) to assess the impact on quality of care and reduction in other health care service expenditures of reimbursing pharmacists separately for providing ongoing drug utilization management (including medication

regimen review) to insure that prescriptions are appropriate, medically necessary, and unlikely to result in adverse medical results;

(B) to reimburse pharmacists (or other persons authorized to dispense drugs under State law) under such projects based on marketplace pricing; and

(C) to use an electronic, on-line claims capture and adjudication component in such projects to process medicare prescription drug claims.

(c) **PROJECT REQUIREMENTS.**—(1) A project conducted under this section shall provide for coverage of all drugs and biologicals approved by the Federal Food and Drug Administration and all medically accepted indications of these drugs as indicated in the 3 national compendia of drug use standards: the USP-DI, AHFS-DI, and AMA-DE.

(2) In each geographic area in which a project is conducted, a Drug Use Review Board (hereinafter referred to as the "DUR Board") shall be established which shall consist of a sufficient number of actively practicing physicians and pharmacists from the geographic area who shall possess knowledge in pharmacology and therapeutics, especially as it relates to drug use with respect to the elderly. In lieu of establishing a DUR Board in the area, functions of the DUR Board may be performed by the State medicare DUR Board established under section 1927(g) of the Social Security Act.

(3) The DUR Board established under this section shall be responsible for recommending the design and development of the medicare prescription drug benefit within the geographic area. It shall establish a program of prospective and retrospective drug use review for medicare beneficiaries entitled to drug benefits under the project. The Board shall also develop appropriate educational interventions to ensure that drugs are prescribed and dispensed in accordance with standards that are described in the 3 national medical compendia and the peer-reviewed medical literature.

(4) In assessing the total costs of the medicare prescription drug benefit, the DUR Board should consider various levels of discounts, rebates (or other appropriate incentives), and inflation containment mechanisms that could be negotiated with, or required from, pharmaceutical manufacturers as a condition of participating in the program, such as the discounts and rebates provided to the medicare program under section 1927 of the Social Security Act.

(d) **DURATION OF PROJECTS.**—The demonstration projects established under this section shall be conducted for a period of 5 fiscal years beginning October 1, 1992, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(e) **EVALUATION AND REPORT OF SECRETARY.**—The Secretary shall fund an independent evaluation of the demonstration projects and shall report to the Congress on the results of such evaluation no later than 5 years from the date of enactment of this Act. The report of the Secretary shall review the impact on cost and quality of care of the various forms of benefit design and reimbursement policies to provide prescription drugs to medicare beneficiaries and make recommendations on the applicability of the demonstration projects to other medicare beneficiaries.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated

equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, \$200,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the demonstration projects established under this section.

#### SEC. 2295. PRESCRIPTION DRUG POLICY REVIEW COMMISSION.

(a) **ESTABLISHMENT.**—Subject to the availability of appropriations as authorized in subsection (f), the Director of the Congressional Office of Technology Assessment (in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of a Prescription Drug Policy Review Commission (in this section referred to as the "Commission"), to be composed of individuals with expertise in the provision and financing of inpatient and outpatient drugs and biologicals. The provisions of title 5, United States Code, governing appointments in the competitive service shall not apply to the appointment of members of the Commission.

(b) **COMPOSITION.**—(1) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than October 1, 1992, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(2) The membership of the Commission shall include—

(A) recognized experts in the fields of health care economics and quality assurance, medicine, pharmacology, pharmacy, and prescription drug reimbursement;

(B) other health care professionals; and

(C) at least one individual who is an advocate of medicare and medicaid recipients.

(c) **ANNUAL REPORTS.**—The Commission shall submit to the Congress and the Health Care Cost Containment Commission an annual report (by not later than January 1 of each year beginning with 1994) which shall include information and recommendations regarding national and international drug policy issues, such as—

(1) trends and changes in prices for prescription and non-prescription drugs (on the retail and manufacturer level) in the inpatient and outpatient setting in the United States;

(2) trends and changes in prices and mechanisms for cost containment for prescription drugs in other industrialized nations, such as Canada, Japan, and countries of the European Economic Community, and the applicability of such mechanisms to the United States;

(3) the scope of coverage, reimbursement, and financing under Federal health care programs, including titles XVIII and XIX of the Social Security Act, the Department of Veterans Affairs, the Department of Defense, and Public Health Service clinics;

(4) the availability and affordability of prescription drugs for various population groups in the United States, and the accessibility and affordability of public and private insurance programs for prescription drugs for such population groups;

(5) changes in the level and nature of use of prescription drugs by recipients of benefits under titles XVIII and XIX of the Social Security Act, taking into account the impact of such changes on aggregate expenditures under these titles;

(6) suggestions to make prescription drugs more affordable and cost-effective for third party insurers, including State-based pharmaceutical assistance and general assistance programs;

(7) evaluation of technologies available for efficient third party prescription drug program administration, such as electronic claims management and payment technologies;

(8) methods of providing reimbursement under Federal health care programs to providers for drug products and cognitive services;

(9) evaluation of the use and efficiency of all Federal tax credits and subsidies given to the pharmaceutical industry for various purposes, including the tax credit allowed under section 936 of the Internal Revenue Code of 1986, and recommendations on developing incentive-based tax credits for research and development; and

(10) evaluation of the impact on total health care expenditures in other industrialized nations of switching prescription drugs to non-prescription status, and the role of various health professionals in the distribution of such non-prescription drugs.

(d) **SPECIAL REPORTS.**—The Commission shall submit to the Congress and the Health Care Cost Containment Commission special reports as requested by the Congress and the Commission.

(e) **ADMINISTRATIVE PROVISIONS.**—Section 1845(c)(1) of the Social Security Act (42 U.S.C. 1395w-1(c)(1)) shall apply to the Commission in the same manner as such section applies to the Physician Payment Review Commission.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, an amount determined under paragraph (2) for each fiscal year, to carry out the purposes of this section.

(2) **AMOUNT DETERMINED.**—

(A) **IN GENERAL.**—For purposes of paragraph (1), the amount determined under this paragraph is—

(i) for fiscal year 1993, \$3,000,000, and

(ii) for each fiscal year beginning after fiscal year 1993, the dollar amount for the previous fiscal year, increased by the cost-of-living adjustment.

(B) **COST-OF-LIVING ADJUSTMENT.**—For purposes of subparagraph (A), the cost-of-living adjustment for any fiscal year is the percentage (if any) by which—

(i) the CPI for the previous fiscal year, exceeds

(ii) the CPI for fiscal year 1992.

(C) **CPI.**—For purposes of subparagraph (B), the CPI for any fiscal year is the average of the Consumer Price Index for prescription drugs as of the close of the 12-month period ending on June 30 of the previous fiscal year.

#### SEC. 2296. REPORT ON FEDERAL SUBSIDIES AND INCENTIVES PROVIDED TO THE PHARMACEUTICAL INDUSTRY.

(a) **REPORT.**—By not later than July 1, 1993, the Secretary of Health and Human Services, acting in consultation with the Secretary of the Treasury, shall submit a report to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce, and the Committee on Ways and Means of the United States House of Representatives, and the Special Committee on Aging of the United States Senate, on Federal subsidies and incentives provided to the pharmaceutical industry. Such report shall include—

(1) a determination of the total cost over the 5 immediately preceding fiscal years to Federal taxpayers of all Federal subsidies provided to the pharmaceutical industry (including tax incentives, subsidies, grants, and any other financial support);

(2) a description of—

(A) the purposes for which such Federal subsidies are used by the pharmaceutical industry;

(B) the Federal role in researching and developing patented pharmaceutical products and the extent to which the Federal Government should co-license certain drugs and biologicals;

(C) the extent to which pharmaceutical industry marketing research costs are incorporated into allowable Federal tax credits;

(D) comparable financial incentives, subsidies, and tax credits provided to the pharmaceutical industry by other industrialized nations and the use of such incentives, subsidies, and credits by such industry;

(E) the relationship between the total Federal financial support provided to the pharmaceutical industry by the United States and other industrialized nations and the prices paid by the citizens of such respective nations for prescription drugs; and

(F) the extent to which tax credits provided by the Federal Government subsidize total worldwide pharmaceutical industry research and development; and

(3) recommendations on how Federal tax credits to pharmaceutical manufacturers and marketing exclusivity for drug products may be related to—

(A) an individual manufacturer's pricing behavior in the marketplace; and

(B) the relative therapeutic value of new pharmaceutical products researched, developed, and marketed in the United States.

**SEC. 2297. MANUFACTURER INTERNATIONAL DRUG PRICE REPORTING REQUIREMENTS.**

Subparagraph (A) of section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by adding at the end thereof the following new clause:

"(iii) not later than 30 days after the end of each calendar year, the average price that the manufacturer sold each covered outpatient drug in such calendar year in the following countries: Canada, Australia, and the countries of the European Economic Community."

**SEC. 2298. USE OF REVENUES.**

(a) **EXTENSION OF SELF-EMPLOYED HEALTH INSURANCE DEDUCTION.**—Section 162(l)(6), as amended by section 2201(b), is amended by striking "December 31, 1994" and inserting "May 31, 1995".

(b) **DEFICIT REDUCTION.**—It is the sense of the Senate that, after the application of the amendment made by subsection (a), any remaining revenues resulting from the amendment made by section 2293(a) shall be applied to reduce the Federal budget deficit.

Mr. PRYOR. Mr. President, I ask unanimous consent that the previously mentioned summary of the changes made to S. 2000 be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

**SUMMARY OF THE CHANGES MADE TO S. 2000**

As my colleagues may be aware, the amendment that I have sent to the desk is a modified version of S. 2000. S. 2000 was a good piece of legislation. However, to further strengthen the legislation and assure that it cannot be subjected to a budget point of

order, I have made the following modifications:

1. Revenue saved through a reduction in the Section 936 tax credits due to excessive drug inflation would be used to extend the 2-year, 100 percent self-employment health insurance tax deduction now in the tax bill—a high priority for the small business community. Any additional revenue saved will be used to reduce the deficit. (Joint Tax/CBO estimates that about \$1.1 billion will be saved over 5 years as a result of the tax credit reduction formula in the legislation.)

2. Funding for the Prescription Drug Payment Review Commission (RxPRC) and for the Medicare Outpatient Prescription Drug Demonstration Projects would be authorized—not directly appropriated. This avoids any problem with a budget point of order.

3. References to the study of the applicability in the United States of the Canadian drug price review board have been restructured so that a broader study of drug cost containment methods used by various industrialized countries is undertaken. This eliminates specific references to the patent and compulsory licensing issues that the drug industry and the Administration claims has trade implications.

It is absurd to me that simple mention of a study in this legislation would evoke the kind of response that it has from the drug industry and the administration. I wish that all my proposed studies received as much attention.

Mr. President, the JCT and CBO's savings estimate for the legislation is good news on two fronts. The estimate proves that holding the 936 tax credit over the heads of the drug manufacturers will serve as a strong incentive for drug manufacturers to keep price increases at the rate of inflation. Therefore, the legislation accomplishes the dual purpose of extending the 100 percent self-employer tax credit reduction, and keeping drug price increase to the rate of inflation.

Although these modifications are significant and make this amendment even more attractive, I have no doubt that the Administration will continue its active campaign to oppose this legislation. I can only wish that the Administration would consider using the same energy it is using to oppose our plan to develop their own proposal to contain prescription drug costs. Never once have I heard the President or the Secretary offer concrete proposals to contain the cost of prescription drugs, not less even acknowledge it as a problem.

Mr. BRADLEY. Mr. President, I ask unanimous consent that Ross Russell, congressional fellow, be afforded the privileges of the floor for this day and the remainder of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment that has just been sent to the desk.

Let me first say to my distinguished friend from Arkansas, who I do think raises an important issue, and I think that it is an important issue that we will have to deal with in the coming months and years. I share the Senator's concern about cost containment for health care. The cost for health care is, indeed, out of control and, frankly, I am in favor of strong measures to confront the causes and to find the cure for a health care system that is in a serious state of price escalation.

The cost for medical care has been increasing in double digits for the last decade—more than twice the general inflation rate. At the same time, 35 million Americans do not have any health insurance, largely because they cannot afford the high price. The increases in cost for health care, including prescription drugs, are simply not sustainable, and we have to take action, I believe, to contain them.

We know that elderly citizens, persons suffering from chronic medical conditions, and individuals threatened by new diseases are highly dependent on prescription drugs for cures, relief from painful symptoms, and hopes for more radical breakthroughs.

So let me say at the outset that I appreciate Senator PRYOR's efforts to try to find solutions to these problems.

However, I believe that we have to address these issues through comprehensive health care reform; reform that achieves universal access and establishes effective cost containment throughout our system of health care.

In the Senate, we are just beginning the debate about national health insurance. Each of the major reform bills already introduced contain their own recommendations for how to achieve cost containment. Indeed, price controls are included in several of the major provisions.

Senator PRYOR proposes cost containment in only one part of that system—for prescription drugs. His approach would have us adopt essentially the Canadian model for prescription drugs. The Canadian model is roughly that you have a price commission that sets price limits for drugs, and if any company violates that agreement, they may lose their patent in Canada for that particular drug.

This is a method that is clearly going to have to change in Canada because of the negotiations that are going on in the multilateral trade round. But that is a system toward which this amendment envisions America heading. We have not had an opportunity to weigh the advantages or disadvantages of that kind of system and, indeed, the debate on health insurance has just begun.

So to propose a final solution for just one sector of the health economy that concludes finally that Canada offers the answer is, in my view, highly premature.

We have to recognize that piecemeal efforts to control the costs for health care, such as singling out prescription drugs, simply have not worked. Cost containment strategies for health care are not new or unique even in the pharmaceutical industry. Over the last 20 years, we have made many attempts to limit cost increases in health care.

One of the lessons we have learned is that our health care economy is very large and very flexible and very adaptable. You press it here, it pushes out

there. You control prices here, and prices go up somewhere else. And we have seen how fragmented efforts at cost control have only resulted in further cost shifting as suppliers of health care try to retain income levels and market shares.

Again, with that background, cost containment has to be carefully crafted from a system perspective.

So addressing only the pharmaceutical industry without looking at the broader issue, frankly, could hurt one segment of the health care industry and do nothing about overall cost increases.

You might control pharmaceuticals, but you will not be able to control hospitals or you will not be able to control doctors. So, prescription drugs I agree are a highly visible part of the health care system. And they are highly visible, in particular, because of the fact that they are paid for out of pocket, by and large; they are not picked up by Medicare, or by many health insurance programs.

I understand the serious impact the pharmaceuticals have on those Americans in need, and in particular senior citizens. In fact, out-of-pocket expenses for elderly citizens have doubled in the last three decades.

But according to a new study by Families U.S.A., there are three major reasons for increasing out of pocket costs in health care, and the three major reasons do not include pharmaceuticals. They are nursing home costs that are skyrocketing; physicians' costs that are skyrocketing; and hospital costs that are skyrocketing. This amendment does nothing to deal with those increases in costs.

We all know some of the basic figures. We all have had town meetings in which someone comes to the town meeting with a hospital bill where they have gone into the hospital for 1 day and they are charged \$4,000.

I was in a bookstore not so long ago. A person behind the counter, a 22-year-old said: When are you going to do something about health care? I said: What do you mean? You are 22. He said: I went into the hospital for 1 day, and I got a bill for \$4,000. I do not have any health insurance. I cannot pay for it.

You go into a hospital in America today and get a coronary bypass. It costs \$49,000—\$49,000. You go in and have a Caesarian section birth and it costs \$7,500. Ironically, one of the studies that I have read recently shows that the number of Caesarian sections obtained by women with incomes above \$30,000 is double the amount of Caesarian sections for women with incomes under \$30,000, which is clearly not a comment about differing birth canals, but is a comment about income levels and inability to control the costs on the physician and hospital side. This amendment does nothing to control costs for physicians or to control costs

for hospitals or to control costs for nursing homes.

I think, frankly, these facts emphasize the need to recognize the overall system of health care. If we are concerned about out-of-pocket costs, in my view, you need a broader strategy than simply dealing with prescription drugs. If we are to achieve effective cost containment, how significant are prescription drugs within our overall health care costs? Before I get to this point, where are we going to head with regard to cost containment for our health care system?

I would like to see a cost control system where all of the players in the health care system are given a global budget and are put in a room to begin to regulate themselves. But clearly, this amendment is not nearly that broad, either in process or reach. It deals only with pharmaceuticals. So let us look at the cost of pharmaceuticals as a part of the total cost of health care, because it is the total cost of health care that people are outraged about.

The prices for prescription drugs have increased along with all these other costs. But they have decreased proportionally over the last three decades. For example, we now spend about \$800 billion on health care. How much of that is prescription drugs, pharmaceuticals? Only about 7 percent of all we spend on health costs in this country comes from spending on pharmaceuticals.

Is that more or less than, say, 1965? In 1965, 9 percent of all health care costs came from pharmaceuticals. So that, in fact, the percent of total health care costs that are borne by pharmaceuticals has not increased since 1965. It has decreased slightly, to, around 7 percent.

Compare this with what happens in other countries. Let us take a country like Germany. Of their total health care costs, 20 percent is borne by the cost of prescription drugs—20 percent. Not 7 percent, as in this country, but 20 percent. Germans pay much more of the total health care dollar that they spend on drugs than in the United States.

Or take Canada, the great example toward which this amendment heads. In Canada 12 percent of all health care costs come from expenditures on pharmaceuticals. So if this system, toward which this amendment envisions America heading, is so good, why then is the cost, as a percent of total health care in Canada nearly double what those costs are in the United States, as a percent of total health care costs?

In fact, only Norway and Sweden have expenditures on pharmaceuticals as a percentage of total health care costs, that are anywhere close to ours.

So, Mr. President, what I also believe is a major concern about Senator PRYOR's amendment is its effect on invest-

ment, research, and innovation in this country. Senator PRYOR has singled out one sector of the health care economy that is the most heavily research oriented and funds a significant amount of all research on health care.

Statistics show that the private pharmaceutical industry spends about \$9 billion a year on research—\$9 billion a year. That is roughly the same as the Federal Government spends on the NIH. So the private pharmaceutical industry puts as much into research to find cures, to lengthen American lives, as does the entire Federal Government in the NIH.

And although it is not easy to predict the reactions in the marketplace to Government intervention, this one is simple: Price controls, as envisioned in this amendment, will significantly reduce incentives for investment; a reduction in investment reduces funds for research; reduction in research will lead to fewer innovations, fewer cures, and fewer hopes for many Americans who are counting on medical breakthroughs to lengthen their lives.

It costs about \$231 million to bring a drug onto the U.S. market; \$231 million to bring one drug into the U.S. market. Is that too much? It seems like a lot of money to me. If so, do we solve the problem by capping research spending, or limit it to the consumer price index? Frankly, as we enter an age of new biotechnology research, when the competitiveness of the United States is at stake, policies that discourage new research could be devastating.

What about all of this investment in research? Does every new product that is researched produce a new drug? The answer is no. Roughly 1 in 5,000 ever makes it to market. So that means, in the research environment, you go down a track and come to a dead end; go down another track and come to a dead end; go down 4,999 tracks and you hit dead ends until you make a breakthrough that produces a drug that improves people's lives.

In all this debate about research, I do not think there is proper focus about how research-sensitive this industry is. One company in this industry, for example, developed a way to essentially cure ulcers. It was a big seller; it was protected by a patent. But they put billions into research to try to find the next generation of drugs. When their patent expired, they were unable to do it. The company was so significantly dependent upon that drug that when the patent expired, they had to merge with another company.

The fact of the matter is that research is directly related in the most fundamental way to the health of every pharmaceutical company. More than one pharmaceutical executive has conveyed to the Congress that they will cut anything before they will cut research.

And that is because each one of them knows that in a certain time period,

the drug that they invested billions of dollars of research into, that is then made available to the public, will have its patent expire. And, when its patent expires, they will have to have another one to replace it and they will not have another one to replace it unless they have made major investments in research.

Mr. President, the National Science Board just released a new study that points out that, for the first time since the 1970's, American spending on research has begun to fall. Private and federally sponsored research have both begun to decline. The New York Times stated, "analysts, already edgy about America's status in the global context for economic advantage, expressed worry about the research decline." "American spending is falling," they said, "as similar investments by Japan and Germany are rising." Dr. Frank Press, President of the National Academy of Sciences, said, "We especially need to ask why our industrial research is down when for other countries it is going up. That is a matter of real concern."

The measures in this amendment will lead to a further decline in research for U.S. industry. And it is not just research alone, but it is research and development. For example, the U.S. pharmaceutical industry leads the world in the innovation of new drugs over the last three decades. It is no coincidence that the 4 countries responsible for 70 percent of the significant pharmaceutical innovations over the last 30 years have really come from market economies. The United States alone accounts for more than half of the total.

Now, one statistic that I think we all ought to have pause on is an increasingly competitive international environment, where patents determine who is going to have economic advantage. Half of all U.S. patents are now being issued to Japanese companies—half of U.S. patents to Japanese companies—while American firms own 80 percent of the biotechnology patents today. So, we have a major advantage here. We have a major advantage. And, of course, the country toward which this amendment pushes us, Canada, has had one, maybe two, major drug discoveries in the last two decades.

Certainly, lower prices will help consumers to be able to afford prescription drugs. But the question is, what are they going to be able to buy? If you ask those whose lives have been saved due to innovations in the pharmaceutical industry, price controls may not be proconsumer. Today, more than 300 new drugs are being developed for 45 diseases related to aging. More than 110 drugs and vaccines are being developed for children. Many of them target cancer, Alzheimer's disease, high blood pressure, and stroke.

The distinguished Senator from Arkansas has a long list of groups that

support his amendment. He does not have groups like American Cancer, Heart, or mental health groups because they are the groups that realize what a breakthrough in pharmaceutical research means to their members. Prescription drugs may also offer the most cost-effective treatment that can reduce health care expenditures.

In 1976, the year before a major new drug was introduced to treat ulcers—just one example—there were 155,000 surgeries for bleeding ulcers. The breakthrough came. The drug was introduced, and 10 years later there were only 20,000 surgeries, a reduction of 90 percent, which means that maybe the best way to save costs is to have major breakthroughs in drugs so you keep people out of hospitals and away from the doctors, whose prices are going up much higher than pharmaceuticals.

In fact, the New England Journal of Medicine recently reported that "limiting reimbursement for effective drugs puts frail, low-income elderly patients at increased risk of institutionalization in nursing homes and may increase Medicaid costs."

Finally, Mr. President, it is ironic that we are here on the floor of the Senate debating the merits of the changes in our tax structure that are designed to stimulate our economy and help restore competitiveness to U.S. industries in the world market, and this is an amendment that deals with the pharmaceutical industry, and the pharmaceutical industry has added 50,000 new jobs across America since 1980. Pharmaceuticals require investment in manufacturing, which provides a stronger score for economic productivity. And the pharmaceutical industry has a trade surplus, a trade surplus even with Japan.

Mr. President, there is no question that what this amendment would do—it would endanger that trade surplus, would endanger the jobs that have been created over the last decade across this country, would make it more difficult to get the breakthroughs that could reduce overall health care costs. So, Mr. President, I hope we will not accept this amendment.

We do need action to address the complex causes of escalating price increases. However, it does not make sense to adopt a resolution for one segment of the health care industry before we have begun even debating and carefully considering advantages of each of the strategies that have been introduced in this Congress.

So, Mr. President, I urge opposition to this amendment.

I yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. BRADLEY. I yield the floor.

The PRESIDING OFFICER. Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I think we have more or less worked out a gentlemen's agreement that Senator COHEN is going to go next. I think that was all right with the Senator from New Jersey, and then I believe he was going after that.

Mr. LAUTENBERG. Mr. President, I had deferred to the Senator from New York. So if there is an order developing, do we have to get a unanimous-consent agreement to parcel out time on the floor? I think so.

Mr. PACKWOOD. Yes; if you are going to parcel it out—and we have not gotten to that stage yet—Senator COHEN has been waiting for about an hour, and I think we had a gentlemen's agreement on that.

Mr. LAUTENBERG. I have no problem with that, with Senator COHEN going ahead, and I have deferred some time to Senator MOYNIHAN from New York. But I do not want to wind up 3 hours later.

So if we are going to structure time, I would say structure it. I have no problem if you consider dealing with the four speakers standing on the floor here on something like that.

Mr. BENTSEN. I say to the Senator from New Jersey that we had not set out an order, as the two managers, we have not done so, but if that would be of help to you—

The PRESIDING OFFICER. Would the chairman of the committee use the microphone?

Mr. BENTSEN. Yes; I say, as manager and comanager of the bill, we had not set out an order, but if we can get a mutual agreement, we would be delighted to do it to try to assist you in that regard.

Mr. HATCH. I have been waiting here from the beginning of the debate, and I would be happy to defer to my colleagues from the other side and, of course, my distinguished friend from Maine. It was kind of our understanding that we would go next.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the speakers be recognized in this order: Senator COHEN, Senator MOYNIHAN, Senator LAUTENBERG, Senator PRYOR, and Senator HATCH with no time allocation.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I am pleased to join my colleague, Senator PRYOR, in introducing this amendment. I would like to just offer a couple of

comments concerning the statement offered by my colleague from New Jersey, Senator BRADLEY.

Senator BRADLEY indicated that this amendment should be part of a comprehensive health reform proposal. Under ordinary circumstances I would say that indeed is the case.

But the implication from his statement was, however, that there should be no effort to control the costs of the pharmaceuticals. He claimed that this amendment somehow sets up a price review panel, like Canada's, under which the drug companies would lose their patents and licenses if they exceed price controls. That is completely erroneous.

The amendment has no reference to any Canadian-like board. In fact the commission set up by the amendment has no power to set prices. Instead, it is designed to look at ways in which we could begin to address the prescription drug costs. It looks at drug companies' subsidies and reviews whether these subsidies are appropriate. That is a long way away from setting up a price review panel like Canada's.

Second, I point out that this measure is not totally irrelevant to the bill under consideration. I notice from the proposal that has been set forth by the Finance Committee that there are proposals to make health care insurance more accessible to small employers. Obviously the Finance Committee is concerned about the cost of health care and how we can review the current structure. So what we have here is an opportunity to at least address our attention to one facet of the health care industry which appears to be exceeding the ability of its constituents to pay for it.

A trip to the pharmacy for a drug prescription has become a journey into a chamber of financial horrors for many Americans—Over the last decade the inflation rate of prescription drug prices has increased over three times the general inflation rate, and it is rapidly outpacing the ability of the average person to pay for his or her medication. Families with no insurance, or those who have no prescription drug coverage, are dreading a trip to the doctor for fear that he or she is going to prescribe a medication for which they cannot pay.

These high drug prices are especially devastating to senior citizens. They make up only 12 percent of our population, but they use about 34 percent of all the prescription drugs. In addition to being major consumers of prescription drugs, most elderly do not have prescription drug coverage and Medicare does not cover outpatient prescription drug costs.

In fact, according to surveys by the American Association of Retired Persons, prescription drugs are the single largest out-of-pocket medical expense for three out of four elderly. And one in

seven older Americans have failed to take their medicine because it is simply too expensive.

I do not know what the reaction to these high drug prices has been from people in other States, but I want to give just an example of the kinds of letters I have received from my own State of Maine.

Mr. PRYOR. Mr. President, if the Senator from Maine will suspend momentarily, there are entirely too many conversations and we cannot hear the Senator from Maine on this side.

The PRESIDING OFFICER. The Senate will be in order. Those conducting conversations will please retire from the Chamber.

The Senator from Maine.

Mr. COHEN. One gentleman from central Maine wrote me that he was spending \$160 a month for medication for arthritis. He stopped taking it because he "could tolerate the discomfort better than the expense."

Another woman wrote to say the eyedrops she takes for glaucoma increased by \$3 per bottle in 3 months. Her heart medication had also risen from \$44 to \$71 within the last 3 years, an increase of over 60 percent. She wrote:

I know people who are trying to either cut down or do without important medications, and this means that sooner or later they will end up in the hospital, \* \* \* or on welfare.

I had a 72-year-old gentleman from southern Maine who wrote saying he had to take a job working part time to pay for his monthly prescription bill, which runs about \$150 a month.

Another woman from Portland said, "It seems I just endorse my Social Security check to the drugstore."

I have more examples. A couple from Caribou wrote:

My husband and I spend \$150 a month on prescriptions. We worked all our lives and now we either eat or go without medicine, or take the prescription drugs and go without good nourishment. It just does not seem fair.

A senior citizen from Windham wrote:

We spent \$317 a month on prescriptions \* \* \*. Please help. It isn't right to have to decide whether I enjoy good health, or do I eat, or do I stay warm?

Whether senior citizens can stay warm is another debate altogether. Of course with the reduction on the part of the administration in LIHEAP, the Low-Income Heating Energy Assistance Program—people not only have to choose between medicine and food, but medicine, food, and heat in my State of Maine. This, however, is an issue that I will raise another day.

A senior citizen from Biddeford wrote:

I cannot afford to spend the kind of money on drugs that my prescriptions cost, so I only take medicine when I really have to, as a last resort. Prices go up every time I go for a refill.

I have literally hundreds of letters that are similar. And it is not only the

elderly who are hurt by high drug prices. A 14-year-old boy from southern Maine had a kidney transplant. His drugs were paid for by Medicare for 1 year. Now his family has to pay \$1,200 a month out-of-pocket for his drugs. This financial burden will continue for the rest of this young man's life.

Mr. President, the examples of individuals who are being financially devastated by the costs of their medications can go on ad infinitum. The Congressional Budget Office has documented that these anecdotes are supported by their findings, which show that 60 percent of the elderly in this country face potentially catastrophic out-of-pocket prescription drug expenses either because they have no Medigap coverage or because their supplemental coverage does not include prescription drugs.

The easy answer offered by those who are in opposition to this measure is easy: "Get insurance." But there is a big catch—22 here. The insurance companies are not going to insure individuals if they have to incur the high cost of the drugs. So, the other answer is: "Just have the Government pay for it? Let us have a comprehensive overhaul of our system. Perhaps Medicare or the Federal Government should take over the payment for prescription drugs and allow the drug companies to maintain the same high level of profit they are currently enjoying."

We have come to the situation where we have good news and bad news for the consumer. The good news is that we have developed medications that will save your life, or ease the pain which you are currently experiencing. The bad news is, however, you cannot pay for it and you cannot have it. Or, if you can pay for it, you will have to go without food or without heating assistance or air cooling assistance.

I do not think we should live in a society which puts that choice to those who are most vulnerable in our country. While seniors and their families are scrimping to pay for their medications, the profits of the drug companies continue to soar far above that of other industries.

We are told it is just the free enterprise system at work.

Not quite. The tremendous price increases and unparalleled profits of the drug companies come with a little help from John Q. Citizen through section 936 in the Tax Code. The American public provides \$2 billion annually in the form of nonresearch and development tax credits to the pharmaceutical industry. It provides tax credits for businesses which earn income in Puerto Rico. This is a tax subsidy in addition to the hundreds of millions of dollars of tax credits the drug industry currently receives for researching and developing new pharmaceutical products.

So the amendment that the Senator from Arkansas, myself and others are

offering provides an incentive for the drug companies to lower their prices that are devastating the financial ability and stability of many Americans.

Under the amendment, drug companies would lose a portion of their section 936 tax credits if they increase their prices beyond the general inflation rate. This proposal does not fix prices as the opponents claim. It is designed to discourage price gouging, as some companies practice, and it does not touch one dime of the research and development tax benefits the companies currently enjoy. It simply reduces the excess tax bonuses, that the industry currently enjoys by the amount that their prices exceed the rate of inflation.

It has already been articulated to what end we would put the tax dollars saved. Specifically, they would be used for deficit reduction and to increase the deduction that a self-employed person can now claim for their health care premium costs.

Mr. President, the pharmaceutical industry has a choice in how they set their prices, and the Federal Government should have a choice in where it is spending its tax dollars. I think we have seen too many companies stuff their tax subsidies in one pocket and hit the consumer with escalating prices in the other. In 1990, the total of all U.S. health care expenditures for pharmaceuticals reached \$67 billion. As the Senator for Tennessee pointed out, without any form of cost containment, this figure is projected to reach over \$145 billion by the year 2000.

Several weeks ago, we had a measure on the floor offered by the Senator from New York [Mr. D'AMATO]. He complained about credit card companies charging as much as 20 or 21 percent. What we are talking about in our present political contest is going back to old time values. I remember it was not too many years ago when we used to think of 21 percent interest rates as being in the field of usury; those were usurious rates back in the good old days. Today they are accepted as being quite common. Nonetheless, this body spoke out overwhelmingly saying that was outrageous; that interest rate charges on credit card statements were exceeding that level.

Mr. President, the people of our country should not be forced to give up food to buy prescription drugs or give up medication and endure pain, the pain of a crippling disease in order to pay for other necessities.

I know the chairman of the Senate Finance Committee indicated we should have a "no amendments" policy, but this bill in fact attempts to address one very critical facet of the health care crisis. I think we would be doing a great disservice by failing to adopt this measure, which will help at least to slow the dramatic escalation of prescription drug costs on this coun-

try. So I urge my colleagues to support the amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Under the previous order, the next speaker will be the Senator from New York [Mr. MOYNIHAN].

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, until Senator MOYNIHAN arrives, I would like to speak. He has just arrived, so I will yield the floor.

The PRESIDING OFFICER. Under the previous order, the senior Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise to state that I will not vote for the amendment before us but to state a different set of concerns which, it seems to me, the Congress and the Senate, in particular, will want to weigh as we make this decision. And that is the degree to which we are in the context of a debate on drug pricing, preempting a matter which is quite central to the question of the status of Puerto Rico in the American scheme of things. I refer to section 936 of the Internal Revenue Code—the so-called Possessions Tax Credit. I believe that any changes we make to section 936 should be made in the context of, and clearly mindful of, the status relationship between Puerto Rico and the United States. Section 936 goes to the core of that relationship, and I am dismayed that we only see fit to change it for extraneous reasons.

The people of Puerto Rico are American citizens and have been since 1917. Since the administration of President Truman, the United States has taken the very specific, explicit position that the people of Puerto Rico are free to choose what status they would wish to have. They are free to become an independent nation; they are free to remain a Commonwealth; and they are free to choose statehood—three different options—matters which are important obviously to them and to us as fellow Americans, but with which we are bound before the world by the terms of the United Nations Charter and the provisions on decolonization that are part of the United Nations system, a system which we created, a charter which was drafted 2 miles from here at Dumbarton Oaks.

The fact is that the island, Puerto Rico, the present Commonwealth, was a spoil of war between the empire of Spain and the United States, that splendid little war, as one of our statesmen at the time called it. The issue was Cuba. There was an

instigation on both sides. More agitation, perhaps, on the other side of the United States than was necessary.

We became hugely agitated about the explosion and sinking of the battleship *Maine* in Havana harbor and persuaded ourselves it had been Spanish sabotage. Those of us who have some naval experience I am sure are aware that not long ago in the journal of the Naval War College, Admiral Rickover published the results of a more recent study and found that the Navy inquiry at the time was seriously wrong; that almost certainly the *Maine* blew up because of a spontaneous combustion in its coal bunkers. This was happening to ships around the world as they turned to steam and carried coal, and the chemistry of coal dust was not yet understood, but certainly the original Navy inquiry did not advance that understanding.

The presumption was that the Spanish did it and we went to war. In the aftermath, we obtained two colonies: the Philippines and Puerto Rico. They were spoils of war, let us be clear, and they raised a lot of doubt among some Americans from Mark Twain over to William Graham Sumner of Yale who did not like one bit our seizing of other countries. Graham wrote a wonderful book called "The Conquest of the United States by Spain," and he said by acquiring colonies and becoming an imperial Nation, we became more like Spain. We opposed Spain, but in opposing them acted more like they would have done.

I really do think the conquest of the United States by Spain is something we should keep in mind because almost a century now has gone by. In 6 years' time, it will be the centennial of our acquisition of Puerto Rico, and we have yet to resolve what we will do with it, even though since President Truman we have declared our bona fides and genuinely so.

There is no doubt in any American President's mind on this. I had the privilege of representing the United States at the United Nations in the administration of President Ford who felt as strongly about this as anything, that honorable and straightforward man. The question is how to bring effective self-determination about, how to bring it about, and in doing so, we are going to have to deal with this question of section 936 of the Internal Revenue Code which provides the tax subsidy that is the subject of the amendment now before us.

Mr. President, it is useful to keep in mind that the Possessions Tax Credit was adopted in the 1920's with the Philippines in mind, the Philippines named for King Philip. It was to get American industry to invest in the Philippines, the other prize of the Spanish American War—indeed, the larger, even more remote than Puerto Rico. But we soon gave the Philippines their inde-

pendence which they wanted. In 1934 we agreed to give them independence. In 1946, it took place. The impact of this very strong tax incentive—there is no equivalent in the Tax Code of which I am aware—began to operate in Puerto Rico after World War II.

It has operated with great impact. Probably a third of the economy of Puerto Rico derives from the section 936 tax credit subsidy. And the United States pharmaceutical industry has been foremost in investing in Puerto Rico to take advantage of this incentive. But any company that wishes to invest there gets it. There are electronic companies. There used to be apparel companies. And there are many varieties even today.

Section 936 has transformed Puerto Rico. In the 1940's, the United States-appointed Governor of Puerto Rico, Rexford Tugwell, wrote a gripping book about the island. He called it "The Stricken Land." And it was only through this tax subsidy that the New Deal made its way there.

These are American citizens. Any law we pass applies to them, including Selective Service. And you have a very pronouncedly advancing economy in Puerto Rico today, much lower levels of per capita income than for the United States generally but high for the region and rising, and a very happy thing.

To cut off section 936 would be to cut off perhaps a third of that economy, which would have an obvious impact. To do so without so much as consulting the Puerto Rican leadership seems to show an indifference to the welfare of the island that will make the resolution of the status question even more difficult.

On the other hand, if this were done as part of a negotiation in which the people of Puerto Rico opted for statehood—well, there are benefits in statehood which are not now available to the Commonwealth and there is an exchange and a balancing relationship, and the destabilization that this measure would bring about does not occur.

Let me briefly, Mr. President, but with such passion that I can bring to the subject tell you that the resolution of Puerto Rico's political status is not an issue going away. This is an issue we have tried to keep over here at most in our peripheral vision, but the world watches and the condition is not resolved.

Last August, not a year ago, the United Nations Special Committee on Decolonization adopted a resolution concerning Puerto Rico drafted by Venezuela, a democratic country, a neighbor across the Caribbean. And it is a very powerful statement.

I will take the liberty of reading a part of it.

It begins:

Recalling the Declaration on the Granting of Independence to Colonial Countries and

Peoples contained in General Assembly Resolution 1514 of the 15th General Assembly of 14 December 1960 and the resolutions and decisions of the Special Committee concerning Puerto Rico \* \* \*.

I would note that the United States abstained on that Resolution 1514 in 1960 mentioned in the current resolution. The story of our abstention involves a call from Harold MacMillan to President Eisenhower—I will not recount it here, but it was a large event in 1960 and had consequences later on as the Soviets took advantage of our abstention on a matter of self-determination.

The August 1991 resolution continues:

Having examined the report \* \* \* of the Special Committee on the Implementation of the resolutions concerning Puerto Rico [and] having heard statements and testimony representative of various viewpoints among the people of Puerto Rico and their social institutions, bearing in mind the agreement of the Puerto Rican political leadership to request the President of the United States of America and the United States Congress to adopt legislation with a view to consulting the people of Puerto Rico so that they may express themselves freely, voluntarily, democratically and without interference in their political future \* \* \*.

And it goes on to deplore—I read the full passage:

Deploping the fact that the United States Congress has not yet adopted the legal framework for the holding of a referendum to enable the people of Puerto Rico to determine their political future through the exercise of their right to self-determination. \* \*

That is a right in article I, section 2 of the United Nations Charter. It goes on to reaffirm the inalienable right of the people of Puerto Rico to self-determination and independence and trusts the U.S. Congress to adopt as soon as possible the legal framework to enable the people of Puerto Rico to exercise their right to self-determination in accordance with the principles and practices of the United Nations.

Now, Mr. President, we have not done that. The subject has not even come up in the 102d Congress. It will not go away.

And yet we are acting in that regard today. Without any attention to the status question for Puerto Rico, this amendment would act in a very narrow way. And it would very much constrain our ability to deal with the larger issue later.

Mr. President, the amendment is not going to succeed. It will not succeed because on the side of the aisle it will be regarded as interfering in the economy: price fixing, and so forth. On this side of the aisle, there will be division. Most of us, I think, will vote for it.

But on neither side of the aisle is the issue of Puerto Rico being considered as relevant. I do not want to presume that; but I want to say I have not heard it.

That is more important than the price of timoptic solution, much as I

am aware of the price of timoptic. This goes to the fundamentals of citizenship, of the rights of peoples, of self-determination, of solemn pledges made between peoples, of international law, the United Nations Charter. This has to do with the things that matter most in the world, that mattered most to us when we created this setting in which we today debate. We are not tending to these fundamental issues with enough sense of urgency; not hurry, but the urgency that is their due. Here they come up accidentally, inadvertently.

That August 1991 resolution from the United Nations on Puerto Rico, was adopted 9 in favor, 1 against—against, Norway—for which we thank our NATO friends. But too many countries that should have been with us were not. The usual countries that you expect to be against us were. But there we were, with Norway the only country that voted with us, or rather against the others.

Briefly, Mr. President, what happened? What led to this? Because I want you to know, sir—I want the Senate to know—that leaders of the three major parties, or the three major parties in Puerto Rico, went to New York, went to the General Assembly, and in effect asked for this resolution. The Puerto Rican political leadership went to the United Nations to have the U.S. Congress denounced.

Of course, everything is not always as it appears; I will get to that. But these things do not go away in the 20th century. This is not 1898.

The events of the most recent congressional consideration of the Puerto Rican status question are fairly simple. I can sum them up in 5 minutes. In January 1989, the leaders of the three parties in Puerto Rico—they are, in shorthand and in English, the Commonwealth Party, the Statehood Party, and the Independence Party—sent a joint letter to the Senate majority leader and the House Speaker requesting resolution of the status question. They wanted to get on the ballot in Puerto Rico a measure that would allow the people to say: I vote for the Commonwealth; I vote for independence; I vote for statehood. And to insure that the Congress would then give serious and timely consideration to the results.

Then, on the 9th of February, in his first month in office—he would only be 19 days in office—President Bush told the joint session of the Congress to pass such legislation. This was his first joint address, and he said it with great vigor. He said:

There is another issue that I have decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

Mr. President, I will not go into detail, although I will place a chronology

in the RECORD. But the Congress moved toward making the decision President Bush asked. And then it moved away, and in the end, it did not act.

There is more than one explanation. It is simply the fact, sir, that there are divided views on the island as to whether they want a referendum, the division being not unreasonable. Those who think they might lose it would rather not have it.

But, sir, that is not our option. We must make that referendum available. And people can vote as they please. They can either stay away, or make conditions of some kind that if enough voters do not vote, then it is not a binding decision, whatever. But we need to do that because the Congress is now being identified as the place that would not act; that is denying this right to the people of Puerto Rico.

I do not think we are, sir. I do not think we are engaged on the issue. There are people here who have different views on statehood. Well, we have always had different views—almost always—though, from 13 States to 50. There is nothing the matter with that.

But it would be a great mistake, in my view, to take this, to not deal with the issue when it ought to be dealt with in the context of the status of the people of Puerto Rico. Section 936 is part of the arrangements we offer for economic development in possessions of the United States. It is their due. They do not have many rights as possessions, as it were. But we gave it to them in the 1920's. To take section 936 away now in this context, without consultation or a hearing, is not something I would want to see my country do. Nor, I think, would other Senators want to do so.

The views down in Puerto Rico are very much divided right now. As I have told you, they are tentative and their views on a status referendum are very vigorously divided. But, sir, section 936 ought to be dealt with in a context which at least exhibits awareness of the larger issue of political status.

I would hope, then, that we would keep that option open for fellow American citizens in Puerto Rico, who would do well to get their own views in order and cease, perhaps, going to the United Nations and blaming the Congress. I did not think there were any grounds for blaming the Congress. There were too many people from Puerto Rico who, in back rooms, were saying do not do what we were then blamed in public for not doing.

But I leave that aside. I simply hope that we will not preempt today the full range of choices that we will want before us as we deal directly with the status issue.

Mr. President, I yield the floor, asking unanimous consent that I might place at the end of my statement a chronology of the events of the 101st and 102d Congress on the question of a status referendum for Puerto Rico.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### CHRONOLOGY OF CONSIDERATION OF PUERTO RICO STATUS LEGISLATION 101ST AND 102ND CONGRESS

The following is a chronology of the development during the 101st and 102nd Congresses of legislation authorizing a status referendum in Puerto Rico.

January 17, 1989—Leaders of three parties send joint letter to Senate Majority Leader and House Speaker requesting resolution of status issue.

February 9, 1989—President Bush calls on Congress to pass legislation authorizing status referendum in his first Joint Session address.

#### SENATE

April 5, 1989—Energy Chairman Johnston introduces S. 712, authorizing status referendum and containing detailed self-executing terms for 3 options.

June 1, 2, 1989—Energy begins hearings on S. 712.

June 16, 17, 19, 1989—Energy holds field hearings on S. 712 in San Juan, Puerto Rico.

July 7, 1989—Sen. Moynihan requests studies from CBO and Joint Tax Committee regarding status bill issues within jurisdiction of Finance.

July 11, 13, 14, 1989—Energy hearings on S. 712.

July 26, 27 and August 1, 2, 1989—Energy markup of S. 712.

August 1, 1989—Energy reports S. 712.

September 6, 1989—Energy files report on S. 712.

September 26, 1989—S. 712 jointly referred to Finance and Agriculture (subject to discharge if not reported by November 1989).

October 23, 1989—Johnston writes House Interior Chairman Udall urging House to hold hearings on S. 712 before adjournment.

#### HOUSE

November 6, 1989—Udall replies to Johnston, rejecting approach of S. 712 and promising to consider status legislation in 1990.

#### SENATE

November 9, 1989—Agriculture hearing on S. 712.

November 11, 14, 15, 1989—Finance hearing on S. 712.

#### FIRST SESSION ADJOURNS

#### HOUSE

March 9, 10, 12, 1990—House Interior Committee holds 3 days of field hearings in Puerto Rico (San Juan, Ponce and Mayaguez).

#### SENATE

April 26, 1990—Finance holds hearing on S. 712.

#### HOUSE

May 9, 1990—De Lugo introduces H.R. 4765, authorizing two-step referendum process, with less detailed description of status options.

June 25, 1990—House Insular and International Affairs Subcommittee holds field hearing in East Harlem, New York to consider non-resident voting in referendum.

June 28, 1990—House Insular and International Affairs Subcommittee hearing on H.R. 4765.

#### SENATE

August 1, 1990—Finance marks up and reports amendments to S. 712.

#### HOUSE

August 3, 1990—H.R. 4765 cleared for full Committee by Insular Subcommittee.

September 19, 1990—H.R. 4765 reported by Interior Committee.

September 27, 1990—Hearing on H.R. 4765 by Rules Committee.

#### SENATE

September 28, 1990—UC given for Finance report on S. 712 (notwithstanding lack of re-

port from Agriculture); Agriculture discharged from consideration of S. 712.

September 30, 1990—Finance files report on S. 712.

#### HOUSE

October 2, 1990—Rules reports H.R. 4765.

October 10, 1990—H.R. 4765 debated and passed in House.

#### SENATE

October 10, 1990—Energy Chairman Johnston announces insufficient time left to finish referendum legislation in 101st Congress, promises expedited consideration in 102d Congress.

October 12, 1990—H.R. 4765 received in Senate, placed on calendar.

October 28, 1990—101st Congress adjourns without taking action on referendum legislation.

#### 102D CONGRESS

January 4, 1991—House Subcommittee on Insular and International Affairs de Lugo introduces a referendum authorization bill in the House (H.R. 316).

January 23, 1991—Senator Johnston introduces new version of "detailed" status referendum bill (S. 244).

February 27, 1991—Senate Energy Committee fails to report out S. 244 on a tie vote (10-10).

Mr. MOYNIHAN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG].

Mr. LAUTENBERG. Thank you, Mr. President. Mr. President, I rise in opposition to the amendment by my good friend, the Senator from Arkansas. Even though our interests in controlling our Nation's health care costs are the same, I disagree sharply with the approach and the conclusion that the Senator from Arkansas has come up with in the amendment.

We all know that Americans face a health care crisis made worse by the recession. They are worried about losing their jobs and their health insurance. They are burdened by increasingly expensive health care costs, insurance premiums, and related expenses. Seniors living on fixed budgets must put more and more of their scarce dollars into health care. They fear poverty due to a serious illness, and the time is long past due that this country undertake comprehensive health care reform.

The Senator from Arkansas and I share many of the same concerns. However, I do not believe that this amendment is an effective, comprehensive, or long-term approach to controlling health care costs. This amendment, in fact, may create expectations that the cost of health care will soon come down, which will not happen, because of the small share of the health care cost budget that prescription drugs occupy and the escalating growth of other segments of the health care field. Further, it could have significant and adverse effects on the future discovery of breakthrough drugs, and the growth of an industry that has been one of the bright spots on our economic horizon. Also, it could do serious damage to the economy of Puerto Rico.

Mr. President, this amendment would reduce an existing tax credit that currently accrues to manufacturers with facilities in U.S. territories—principally Puerto Rico—and it sets up a modest demonstration program to provide coverage for prescription drugs to Medicare recipients.

Mr. President, it is not clear that this amendment would do much to hold down health costs overall. The pending amendment would assist a very limited population—those participating in one of the 15 demonstration programs—with a narrow slice of their health care cost. The cost of prescription drugs represents a 7 percent share of the total cost of health care. That is down from 12 percent of the total cost in 1965. I think this is a positive development. The overall cost of health care has grown faster than the cost of prescription drugs and faster than the CPI, from 1967 to 1990. Health care costs now account for almost 13 percent of our GNP. During this same period, expenditures on prescription drugs have remained stable, approximately eight-tenths of 1 percent of GNP.

The problem is the total cost of health care, not one element of it. Legislation that contains all health care costs and provides universal access to health care is now pending before the Senate. Cost containment will be effective if it is done comprehensively. This amendment takes aim at a very small piece of the family health care budget, which could prevent an indepth review of a permanent solution to an overwhelming problem.

Mr. President, I agree that senior citizens face overburdening health care costs. But these increasing costs encompass a wide range of health care services, including long-term care, physician services, vision care, dental care, and medical tests, many of which are important to the prevention of more expensive, more radical treatment.

This amendment only seeks to contain one small element of the senior citizen health care expenditures. Other uninsured costs, like long-term care, can bankrupt a senior citizen and their family.

As we move to reform our health care system, we need to address all of the health care costs, and this amendment does not do it. The Senator from Arkansas paints a picture of the problem, and the solution that can create false hopes that perfection in the health care system is nearby. This amendment could also damage one of our most important industries, which offers hope to so many who are afflicted with life-threatening diseases, and is a growing source of jobs and exports in an otherwise very bleak economy.

Mr. President, over the past decades, America has lost its edge in industry after industry. Our competitive advan-

tage is slipping away to our trading partners and allies. We need to be very careful that, as we move to reduce health care costs, we do not stifle the creative process that has resulted in world-class drugs, most of which are lifesaving drugs, and hundreds of thousands of high-wage jobs for our citizens.

In New Jersey, the pharmaceutical industry is among the top employers in our State, employing more than 54,000 workers, and it is expanding at this time. They are good jobs, and these are jobs in an industry that also deserves credit for increasing the longevity and quality of life for all Americans, an industry that has tamed disease after disease feared as killers only 10 years ago.

What I am concerned about, Mr. President, is that this well-intentioned, but misguided, attempt to address the soaring health care costs will not only fail to address the real needs of our people, but could permanently damage our economy.

As recently described in an article in *Fortune* magazine, the pharmaceutical industry is our most competitive industry internationally.

We all know here that we are in the throes of a long and intractable recession. We have seen our growth, high-technology, high-wage industries eroded over time, displaced by foreign competitors. Our manufacturing and industrial base continues to shrink.

The pharmaceutical industry has a different profile. Despite the recession, and fierce international competition, employment in the pharmaceutical industry is expanding. Employment has grown every year since 1980.

Mr. President, the pharmaceutical industry has not grown through leveraged acquisitions, junk bonds, or Wall Street maneuvers. It has grown because pharmaceutical companies invest approximately \$8 billion a year in long-term research and development of new products.

According to an International Trade Commission report to the Senate Finance Committee last September, a major factor in the industry's strong position in the world market is its level of innovation and investment in R&D, often in conjunction with the Nation's university scientists. The ITC found that the U.S. industry was a leader in innovation during 1975 to 1989, developing the majority of the globally successful products introduced during this time period. The ITC found that the pharmaceutical industry routinely allocates approximately 17 percent of its sales of pharmaceuticals to research and development—about three times the level allocated by the remainder of the chemical and related industry sector.

These investments take a long time to pay off, in most cases at least 8 years.

We have heard a lot of criticism in this Chamber about the shortsightedness of American management, and I have had some things to say about this myself. Criticism focuses on the obsession by some U.S. executives on the next quarter or the quarter following that rather than on the long term, which is essential if we are to retain any kind of a competitive edge.

The pharmaceutical industry defies this pattern. It is investing billions of dollars each year to develop lifesaving therapies. It is competing successfully in the international marketplace. The industry enjoys a trade surplus in pharmaceuticals worldwide, even with Japan, one of the few industries that we have that has such a positive trade balance.

This amendment is almost punitive in nature, as though punishing an industry for its vitality and profitability is going to reform our health care system. In taking the steps that he does, the Senator from Arkansas could find himself with very little progress on the cost containment front, but with a significant loss of jobs, reduced international competitiveness and lack of products to deal with the health care problems that we have and that we see enlarging as our population ages.

This amendment could also put a halt to the development of lifesaving therapies, which not only save lives but save money. Treatment of illness and disease through pharmaceutical products is in all cases less expensive than surgery and certainly is less traumatic to the patient involved.

Mr. President, if this amendment is adopted, it may actually hurt the people it is designed to help, our Nation's senior citizens. This amendment will discourage ongoing research on over 200 drugs that are designed to help older Americans and other citizens as well. For example, the following number of drugs are currently in the research and development pipeline: The 87 products being developed for heart disease, high blood pressure, and strokes. In addition, few of us have failed to see the terrible results of Alzheimer's disease in an aging patient. There are 69 products being developed to deal with Alzheimer's, Parkinson's, arteriosclerosis, arthritis, diseases that accelerate their growth with age.

Breast cancer. We are all so aware of the tragedy of breast cancer. Our Government has encouraged women to have frequent mammograms. Unfortunately, all of us again have had some contact directly or indirectly with the breast cancer threat.

Mr. President, I ask unanimous consent that excerpts from a publication that I have here be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## [In Development: New Medicines for Older Americans]

## 1991 ANNUAL SURVEY: MORE MEDICINES IN TESTING FOR CANCER THAN FOR ANY OTHER DISEASE OF AGING

(Presented by the Pharmaceutical Manufacturers Association)

More medicines are in development for cancer than for any other disease of aging, according to the third annual survey of "New Medicines in Development for Older Americans." The survey, conducted by the Pharmaceutical Manufacturers Association, found that 126 cancer medicines are in development, 34 more than in 1989 and nearly twice as many as were being tested in 1988. These 126 medicines are being developed by 56 companies.

Many of these medicines are being tested for more than one type of cancer, resulting in 225 separate research projects, each of which is listed and cross-referenced in this report. Fifty-three of them are in the final stages of development. Three of the cancer medicines listed in PMA's 1989 survey report have been approved. They are: Ergamisol (Janssen) for colon cancer, Zofran (Glaxo), and adjunct to chemotherapy and radiation therapy, and Zoladex (ICI) for prostate cancer.

New biotechnology research techniques play a significant role in cancer research. At least 25 of the cancer medicines in development involve genetically engineered medicines.

The 1991 survey report lists medicines in development for 17 cancers, while the 1989 report covered 9 cancers. New to this survey are bladder cancer with 5 medicines in development, esophageal cancer with 1, liver cancer with 3, lymphoma with 8, ovarian cancer with 12, pancreatic cancer with 2, stomach cancer with 3, and uterine cancer with 8. The cancers that take the greatest toll on our society—lung, breast, and colon cancer—are the leading targets of research by the pharmaceutical industry. More details of the survey results are contained in the table on this page.

Cancer is second only to cardiovascular disease as the leading cause of death in older people. The American Cancer Society estimates that 1.1 million Americans will be diagnosed as having cancer in 1991 and 514,000 people—1,400 a day—will die of the disease. The overall costs for cancer in 1990 were \$104 billion. Further information about the social and economic impact of cancer is provided in the section of this report titled "Facts about Cancer."

The completion and evaluation of clinical studies for the medicines listed in this survey report will reveal their therapeutic significance. Meanwhile, the research-based pharmaceutical industry's increasing efforts to find therapies and cures for cancer hold the promise of easing the pain, prolonging

the lives, and reducing the health care costs for Americans who have this disease.

GERALD J. MOSSINGHOFF,  
President, Pharmaceutical  
Manufacturers Association.

	1991	1989	1988
Summary of survey results:			
Total cancer medicines in development	126	92	65
Total companies developing cancer medicines	56	53	45
Total cancer diseases surveyed <sup>1</sup>	17	9	5
Survey results by development status:			
Phase I	48	33	27
Phase II/III	4	0	0
Phase IV	12	7	5
Phase II	80	38	23
Phase III	13	14	12
Phase IV	42	21	12
Applications at FDA for review	11	6	7
In clinical trials	15	24	11
Survey results by disease:			
Acute myelogenous leukemia	4	1	(1)
Bladder cancer	5	(1)	(1)
Breast cancer	28	21	16
Chronic lymphocytic leukemia	3	3	(1)
Chronic myelogenous leukemia	3	3	(1)
Colon cancer	35	26	20
Esophageal cancer	1	(1)	(1)
Liver cancer	3	(1)	(1)
Lung cancer	29	21	14
Lymphoma	8	(1)	(1)
Ovarian cancer	12	(1)	(1)
Pancreatic cancer	2	(1)	(1)
Prostate cancer	17	12	10
Renal cancer	6	5	(1)
Skin cancer (melanoma/other)	18	14	11
Stomach cancer	3	(1)	(1)
Uterine cancer (cervical/endometrial)	8	(1)	(1)
Other	40	37	26
Total research projects (reflects medicines in development for more than one use)	225	143	97

<sup>1</sup> Category was not included in survey that year.

## CANCER MEDICINES IN DEVELOPMENT

Drug	Company	Other indications	U.S. development status
<b>Acute myelogenous leukemia (AML):</b>			
Anti-myc-9-blocked ricin	ImmunoGen (Cambridge, MA)	(See also CML)	Phase I/II
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also bladder, breast, colon, lung, ovarian)	Phase II
Homoharringtonine	National Cancer Institute (Bethesda, MD)	(See also CML)	Do.
Pergamid <sup>TM</sup> 4-hydroperoxy-cyclophosphamide	Nova Pharmaceutical (Baltimore, MD)		Phase III
<b>Bladder cancer:</b>			
Bropiramine	Upjohn (Kalamazoo, MI)		Phase II
Catrix <sup>®</sup> 1	Lescardien (New York, NY)	(See also breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine)	Phase III
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, breast, colon, lung, ovarian)	Phase II
Gallium nitrate <sup>1</sup>	National Cancer Institute (Bethesda, MD)	(See also colon, uterine)	Do.
Radiol <sup>®</sup> etanidazole	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	(See also lung, prostate, other)	Phase II/III
<b>Breast cancer:</b>			
BMJ-28090	Bristol-Myers Squibb (New York, NY)	(See also colon, lung, prostate)	Phase I/II
Catrix <sup>®</sup> 1	Lescardien (New York, NY)	(See also bladder, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine)	Phase III
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, colon, lung, ovarian)	Phase II
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also lung, lymphoma, ovarian, prostate, uterine)	Do.
Epirubicin	Adria (Columbus, OH)		Phase III
Ethyl <sup>®</sup> ethiofos	U.S. Bioscience (W. Conshohocken, PA)	Chemotherapy and radiation therapy protective agent to reduce toxicity (See also colon, lung, skin)	Do.
Fadrozole	CIBA-GEIGY (Summit, NJ)		In clinical trials.
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also colon, lung, prostate)	Phase III
Granisetron 43694	SmithKline Beecham (Philadelphia, PA)	Adjunct to chemotherapy (See also colon, lung, prostate)	Phase II
Hexalen <sup>®</sup> hexamethylmelamine ldrs.	U.S. Bioscience (W. Conshohocken, PA)	(See also lung)	Phase II
ImmuRAD-CEA	Immunomedics (Warren, NJ)	(See also colon, lung, ovarian, stomach)	Application submitted.
<b>Breast cancer:</b>			
L-6 MAb <sup>2</sup>	Bristol-Myers Squibb (New York, NY)	(See also colon, lung, prostate)	Phase I
Liposomal doxorubicin (TLC D-99)	The Liposome Company (Princeton, NJ)		Phase II
Lometrexol	Eli Lilly (Indianapolis, IN)	(See also colon, lung, prostate)	In clinical trials.
MDL 18.962	Marion Merrell Dow (Kansas City, MO)		Do.
MDL 73.147EF	Marion Merrell Dow (Kansas City, MO)		Do.
MuMAB4D5 HER-2 antibody <sup>2</sup>	Genetech (S. San Francisco, CA)	(See also ovarian)	Phase I
Navelbine <sup>®</sup> vinorelbine	Burroughs Wellcome (Rsch. Triangle Park, NC)	(See also lung)	Phase II
Novantrone <sup>®</sup> 1 mitoxantrone	Lederle (Wayne, NJ)	(See also lung, lymphoma, prostate)	Phase I/III
N-phosphonoacetyl-L-aspartic acid (PALA)	U.S. Bioscience (W. Conshohocken, PA)	(See also colon, lung)	Phase III
Pancarcinoma Re-186 MAb <sup>2</sup>	NeoRx (Seattle, WA)	(See also colon, lung, ovarian, pancreatic, prostate)	Phase I
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also colon, lung, prostate)	Phase II/III
Rogletimide	U.S. Bioscience (W. Conshohocken, PA)	(See also prostate)	Phase II
Sandostatin <sup>®</sup> 1 octreotide acetate	Sandoz (East Hanover, NJ)		Phase I
Sulfenur	Eli Lilly (Indianapolis, IN)	(See also colon, lung, prostate)	In clinical trials.
Taxol	Bristol-Myers Squibb (New York, NY)	(See also lung, ovarian uterine)	Phase II
Thiadiazole	National Cancer Institute (Bethesda, MD)	(See also colon, lung, lymphoma, uterine)	Do.
Toremifene	Adria (Columbus, OH)		Phase III
<b>Chronic lymphocytic leukemia (CLL):</b>			
Oncolysin B anti-b4-blocked ricin	ImmunoGen (Cambridge, MA)	(See also lymphoma)	Phase I
Specific <sup>TM</sup> anti-idiotypic antibody	IDEC Pharmaceuticals (Mountain View, CA)	do	Phase III
Stereocyt <sup>®</sup> prednimustine	Kabi Pharmacia (Piscataway, NJ)	do	Phase II
<b>Chronic Myelogenous leukemia (CML):</b>			
Anti-myc-9-blocked ricin	ImmunoGen (Cambridge, MA)	(See also AML)	Phase I/II
Homoharringtonine	National Cancer Institute (Bethesda, MD)	do	Phase II
Intron A <sup>®</sup> 12	Schering-Plough (Madison, NJ)	(See also renal, skin)	Phase III
<b>Colon cancer:</b>			
Betaseron <sup>2</sup>	Berlex (Wayne, NJ)	(See also other)	Phase III
BMJ-28090	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, prostate)	Phase I/II
BUDR	National Cancer Institute (Bethesda, MD)	(See also liver)	Phase II
Catrix <sup>®</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine)	Phase III

## CANCER MEDICINES IN DEVELOPMENT—Continued

Drug	Company	Other indications	U.S. development status
CGP19835	CIBA-GEIGY (Summit, NJ)	(See also skin)	Phase II
CGP30694 (10 EdAM)	CIBA-GEIGY (Summit, NJ)	(See also lung)	Phase III
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, breast, lung, ovarian)	Phase II
Colon RE-186 Mab	Neorx (Seattle, WA)		Phase I
DaunoXome liposomal daunorubicin	Vestar (San Dimas, CA)	(See also skin)	Phase II
Echinomycin	National Cancer Institute (Bethesda, MD)	(See also uterine)	Do.
Ethylol etiofos	U.S. Bioscience (W. Conshohocken, PA)	Chemotherapy and radiation therapy protective agent to reduce toxicity (see also breast, lung, skin)	Phase III
Gallium nitrate <sup>1</sup>	National Cancer Institute (Bethesda, MD)	(See also bladder, uterine)	Phase II
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also breast, lung, prostate)	In clinical trials.
GNI-250 <sup>2</sup>	Genetics Institute (Cambridge, MA)		Phase I
Granisetron 43694	SmithKline Beecham (Philadelphia, PA)	Adjunct to chemotherapy (see also breast, lung, prostate)	Phase III
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, lung, ovarian, stomach)	Application submitted.
Intron A <sup>2</sup> (interferon alfa-2b) with 5-fluorouracil (5-FU)	Schering-Plough (Madison, NJ)		Phase IV/III
L-6 Mab <sup>2</sup>	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, prostate)	Phase I
Lentinan-Ajinomoto lentinan	Lenti-Chemico (Teanick, NJ)	(See also stomach)	Phase I
leucovorin calcium with 5-fluorouracil	Lederle (Wayne, NJ)		Application submitted.
Lometrexol	Eli Lilly (Indianapolis, IN)	(See also breast, lung, prostate)	In clinical trials.
MDL 72,175	Marion Merrell Dow (Kansas City, MO)		Do.
N-phosphonoacetyl-L-aspartic acid (PALA)	U.S. Bioscience (W. Conshohocken, PA)	(See also breast, lung)	Phase III
OncoRad <sup>2</sup> 103 <sup>2</sup> CYT-103-Y-90	CYTODIN (Princeton, NJ)	(See also ovarian)	Phase II
OncoScint <sup>2</sup> CR103 celogab	CYTODIN (Princeton, NJ)		Application submitted.
OncoScint <sup>2</sup> CR372 CYT-372-In-111	CYTODIN (Princeton, NJ)		Phase I
Pancarcinoma Re-186 Mab <sup>2</sup>	Neorx (Seattle, WA)	(See also breast, lung, ovarian, pancreatic, prostate)	Do.
Panorex <sup>TM</sup> MAB 17-1A	Centocor (Malvern, PA)		Phase II
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, prostate)	Phase IV/III
Proleukin <sup>2</sup> aldesleukin (interleukin-2)	Cetus (Emeryville, CA)	(See also renal, skin)	Phase II
Roferon <sup>2</sup> A1 <sup>2</sup> (interferon alfa-2a) with 5-fluorouracil (5-FU)	Hoffmann-La Roche (Nutley, NJ)		Phase III
Sulofenur	Eli Lilly (Indianapolis, IN)	(See also breast, lung, prostate)	In clinical trials.
Tauriclyl laurumustine (TCNU)	Kabi Pharmacia (Piscataway, NJ)		Phase III
Thiadiazole	National Cancer Institute (Bethesda, MD)	(See also breast, lung, lymphoma, uterine)	Phase II
XomaZyme <sup>2</sup> -791 <sup>2</sup>	Xoma (Berkeley, CA)		Phase II
Esophageal cancer:			
Catix <sup>2</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, liver, lung, ovarian, pancreatic, prostate, renal, stomach, uterine)	Phase III
Liver cancer:			
BUDR	National Cancer Institute (Bethesda, MD)	(See also colon)	Phase II
Catix <sup>2</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, esophageal, lung, ovarian, pancreatic, prostate, renal, stomach, uterine)	Phase I
ImmuRAID-AFP	Immunomedics (Warren, NJ)	(See also other)	Phase I
Lung cancer:			
3F8 <sup>2</sup>	Genetics Institute (Cambridge, MA)		Do.
BioTropin <sup>2</sup> human growth hormone	Bio-Technology General (New York, NY)		Do.
BMY-28090	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, prostate)	Phase VII
Catix <sup>2</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, esophageal, liver, ovarian, pancreatic, prostate, renal, stomach, uterine)	Phase III
CGP30694 (10 EdAM)	CIBA-GEIGY (Summit, NJ)	(See also colon)	Do.
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, breast, colon, ovarian)	Phase II
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also breast, lymphoma, ovarian, prostate, uterine)	Phase II
Ethylol etiofos	U.S. Bioscience (W. Conshohocken, PA)	(Chemotherapy and radiation therapy protective agent to reduce toxicity (see also breast, colon, skin))	Do.
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also breast, colon, prostate)	In clinical trials.
Granisetron 43694	SmithKline Beecham (Philadelphia, PA)	Adjunct to chemotherapy (See also breast, colon, prostate)	Phase III
Hexalen hexamethylmelamine	U.S. Bioscience (W. Conshohocken, PA)	(See also breast)	Phase II
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, colon, ovarian, stomach)	Application submitted.
Ipomeanol	National Cancer Institute (Bethesda, MD)		Phase I
L-6 Mab <sup>2</sup>	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, prostate)	Phase I
Lometrexol	Eli Lilly (Indianapolis, IN)	do	In clinical trials.
N901-blocked ricin	Immunogen (Cambridge, MA)		Phase VII
Navelbine vinorelbine	Burroughs Wellcome (Risch, Triangle Park, NC)	(See also breast)	Phase II
Novantrone mitoxantrone	Lederle (Wayne, NJ)	(See also breast, lymphoma, prostate)	Phase VII/III
N-phosphonoacetyl-L-aspartic acid (PALA)	U.S. Bioscience (W. Conshohocken, PA)	(See also breast, colon)	Phase II
pancarcinoma Re-186 Mab <sup>2</sup>	Neorx (Seattle, WA)	(See also breast, colon, ovarian, pancreatic, prostate)	Phase I
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, prostate)	Phase IV/III
Photofrin <sup>2</sup> polyporphyrin	Lederle (Wayne, NJ) QLT Phototherapeutics (Pearl River, NY)		Phase III
Radiolabeled etiofos <sup>2</sup>	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	(See also bladder, prostate, other)	See also IV/III
Roferon <sup>2</sup> A1 <sup>2</sup> (interferon alfa-2a) with cisplatin	Hoffmann-La Roche (Nutley, NJ)		See also I
sulofenur	Eli Lilly (Indianapolis, IN)	(See also breast, colon, prostate)	In clinical trials.
Taxol	Bristol-Myers Squibb (New York, NY)	(See also breast, ovarian, uterine)	Phase II
thiadiazole	National Cancer Institute (Bethesda, MD)	(See also breast, colon, lymphoma, uterine)	Do.
Thymosin Alpha 1	Alpha 1 Biomedicals (Washington, DC)		Do.
Triciribine phosphate	National Cancer Institute (Bethesda, MD)		Do.
Lymphoma:			
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also breast, lung, ovarian, prostate, uterine)	Phase II
ImmuRAID-LL-2	Immunomedics (Warren, NJ)	(See also other)	Phase I
ImmuRAIT-LL-2	Immunomedics (Warren, NJ)	do	Do.
Novantrone <sup>2</sup> mitoxantrone	Lederle (Wayne, NJ)	(See also breast, lung, prostate)	Phase VII/III
Oncolysin B anti-b4-blocked ricin	Immunogen (Cambridge, MA)	Non-Hodgkin's lymphoma (see also CLL)	Phase I
Specifid <sup>2</sup> prednimustine anti-idiotypic antibody	IDEC Pharmaceuticals (Mountain View, CA)	(See also CLL)	Phase III
Stereol	Kabi Pharmacia (Piscataway, NJ)	Hodgkin's and non-Hodgkin's lymphoma (See also CLL)	Phase II
Thiadiazole	National Cancer Institute (Bethesda, MD)	(See also breast, colon, lung, uterine)	Do.
Ovarian cancer:			
Catix <sup>2</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, pancreatic prostate, renal, stomach, uterine)	Phase III
CI-973	Warner-Lambert (Morris Plains, NJ)	(See also AML, bladder, breast, colon, lung)	Phase II
Decapeptyl <sup>TM</sup> triptorelin pamoate	Organon (West Orange, NJ)	(See also other)	Do.
didemnin B	National Cancer Institute (Bethesda, MD)	(See also breast, lung, lymphoma, prostate, uterine)	Do.
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, colon, lung, stomach)	Application submitted.
MuMAB405 HER-2 antibody <sup>2</sup>	Genentech (S. San Francisco, CA)	(See also breast)	Phase I
N-methylformamide	National Cancer Institute (Bethesda, MD)	(See also skin, uterine)	Phase II
OncoRad <sup>2</sup> 103 <sup>2</sup> CYT-103-Y-90	CYTODIN (Princeton, NJ)	(See also colon)	Do.
OncoScint <sup>2</sup> OVI103 celogab	CYTODIN (Princeton, NJ)		Application submitted.
ovarian RE-186 Mab <sup>2</sup>	Neorx (Seattle, WA)		Phase I
pancarcinoma Re-186 Mab <sup>2</sup>	Neorx (Seattle, WA)	(See also breast, colon, lung, pancreatic, prostate)	Do.
Taxol	Bristol-Myers Squibb (New York, NY)	(See also breast, lung, uterine)	Phase IV/III
Pancreatic cancer:			
Catix <sup>2</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, prostate, renal, stomach, uterine)	Phase III
pancarcinoma Re-186 Mab <sup>2</sup>	Neorx (Seattle, WA)	(See also breast, colon, lung, ovarian, prostate)	Phase I
Prostate cancer:			
BMY-28090	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, lung)	Phase VII
Casodex ICI-176,334	ICI Pharmaceuticals Group (Wilmington, DE)		Phase III
Catix <sup>2</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, renal, stomach, uterine)	Do.

## CANCER MEDICINES IN DEVELOPMENT—Continued

Drug	Company	Other indications	U.S. development status
Didemnin B	National Cancer Institute (Bethesda, MD)	(See also breast, lung, lymphoma, ovarian, uterine)	Phase II.
Gemcitabine	Eli Lilly (Indianapolis, IN)	(See also breast, colon, lung)	In clinical trials.
Granisetron 43694	SmithKline Beecham (Philadelphia, PA)	Adjunct to chemotherapy (See also breast, colon, lung)	Phase III.
L-6 MAb <sup>2</sup>	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, lung)	Phase I.
Lometrexol	Eli Lilly (Indianapolis, IN)	(See also breast, colon, lung)	In clinical trials.
Novantrone <sup>®</sup> 1 mitoxantrone	Lederle (Wayne, NJ)	(See also breast, lung, lymphoma)	Phase I/II/III.
Oncoside <sup>®</sup> PR356 CYT-356-In-111	CYTODIN (Princeton, NJ)		Phase II.
Pancarcinoma Re-186 MAb <sup>2</sup>	NeoRx (Seattle, WA)	(See also breast, colon, lung, ovarian, pancreatic)	Phase I.
Paraplatin carboplatin	Bristol-Myers Squibb (New York, NY)	(See also breast, colon, lung)	Phase I/III.
Radiol <sup>®</sup> etanidazole	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	(See also bladder, lung, other)	Do.
Rogletimide	U.S. Bioscience (W. Conshohocken, PA)	(See also breast)	Phase II.
RS-26306	Syntex (Palo Alto, CA)		Phase I.
Somagard <sup>®</sup> deslorelin	Roberts (Eatontown, NJ)		Phase III.
Sulofenur	Eli Lilly (Indianapolis, IN)	(See also breast, colon, lung)	In clinical trials.
<b>Renal cancer:</b>			
Actimmune <sup>®</sup> 2 gamma interferon	Genentech (S. San Francisco, CA)		Phase II.
Alpha Leukoferon <sup>®</sup> human leukocyte interferon, alpha.	Viragen (Hialeah, FL)		Do.
Catrix <sup>®</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, stomach, uterine).	Phase III.
Intron A <sup>®</sup> 1,2 interferon-alfa 2b	Schering-Plough (Madison, NJ)		Do.
PEG-interleukin-2 1,2	Cetus (Emeryville, CA)	(See also CML, skin)	Phase II.
Proleukin <sup>®</sup> 2 aldesleukin (interleukin-2)	Cetus (Emeryville, CA)	(See also colon, skin)	Application submitted.
<b>Skin cancer:</b>			
Actinex <sup>TM</sup> masoprocol	Chemex (Denver, CO)	Actinic keratoses	Application submitted.
CGP19835	CIBA-GEIGY (Summit, NJ)	Adjunct to melanoma, osteocarcinoma (See also colon)	Do.
Daunoxome liposomal daunorubicin	Vestar (San Dimas, CA)	(See also colon)	Do.
Ethylol <sup>®</sup> ethiofos	U.S. Bioscience (W. Conshohocken, PA)	Chemotherapy and radiation therapy protective agent to reduce toxicity (see also breast, colon, lung).	Do.
hexamethylene bisacetamide	National Cancer Institute (Bethesda, MD)	Melanoma	Phase II.
Imelgel	IDEC Pharmaceuticals (Mountain View, CA)	do	Phase I/II.
Imelgel 2	IDEC Pharmaceuticals (Mountain View, CA)	do	Do.
Intron A <sup>®</sup> 1,2 interferon-alfa 2b	Schering-Plough (Madison, NJ)	(See also CML, renal)	Application submitted.
isotretinoin (topical)	Hoffmann-La Roche (Nutley, NJ)		Phase II.
macrophage colony stimulating factor* (M-CSF)	Genetics Institute (Cambridge, MA)	Melanoma	Phase I/II.
Melacine <sup>TM</sup> melanoma theraaccine	Ribi ImmunoChem (Hamilton, MT)	do	Phase II.
methotrexate topical gel	Whitby Research (Richmond, VA)	Mycosis fungoides	Do.
Mitolactol dibromodulcitol	Amswiss Scientific (New York, NY)	Melanoma (see also uterine)	Do.
N-methylformamide	National Cancer Institute (Bethesda, MD)	Melanoma (see also ovarian, uterine)	Do.
Proleukin <sup>®</sup> 2 aldesleukin (interleukin-2)	Cetus (Emeryville, CA)	Melanoma (see also colon, renal)	Do.
Retin-A <sup>®</sup> tretinoin	Ortho Pharmaceutical Corp. (Raritan, NJ)		Phase III.
Vaccinia virus infected allogenic malignant cell lines, lysate subfraction.	Connaught (Swiftwater, PA) Pasteur Merieux (Lyon, France)	Melanoma	Phase I/III.
XomaZyme <sup>®</sup> -Me1	Xoma (Berkeley, CA)	do	Phase II.
<b>Stomach cancer:</b>			
Catrix <sup>®</sup> 1	Lescardien (New York, NY)	(See also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, uterine).	Phase III.
ImmuRAID-CEA	Immunomedics (Warren, NJ)	(See also breast, colon, lung, ovarian)	Application submitted.
Lentinan-Ajinomoto lentinan	Lenti-Chemico (Teaneck, NJ)	(See also colon)	Phase I.
<b>Uterine cancer:</b>			
Catrix <sup>®</sup> 1	Lescardien (New York, NY)	Cervical, endometrial (see also bladder, breast, colon, esophageal, liver, lung, ovarian, pancreatic, prostate, renal, stomach).	Phase III.
Didemnin B	National Cancer Institute (Bethesda, MD)	Cervical (see also breast, lung, lymphoma, ovarian, prostate)	Phase II.
Echinomycin	National Cancer Institute (Bethesda, MD)	Endometrial (see also colon)	Do.
Gallium nitrate <sup>1</sup>	National Cancer Institute (Bethesda, MD)	Endometrial (see also bladder, colon)	Do.
Mitolactol (dibromodulcitol) with cisplatin	Amswiss Scientific (New York, NY)	Cervical (See also skin)	Do.
N-methylformamide	National Cancer Institute (Bethesda, MD)	Cervical, endometrial (see also ovarian, skin)	Do.
Taxol	Bristol-Myers Squibb (New York, NY)	Cervical (see also breast, lung, ovarian)	Do.
Thiazidazole	National Cancer Institute (Bethesda, MD)	Endometrial (see also breast, colon, lung, lymphoma)	Do.
<b>Other (drugs that have potential for one or more of the previous cancers; unless noted, indications not yet determined):</b>			
773UR2	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase II.
7UR5	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase I.
Adozelesin	Upjohn (Kalamazoo, MI)		Do.
Alendronate sodium	Merck (Rahway, NJ)	Treatment of high blood calcium in patients with metastatic cancer	Phase II.
Alkeran <sup>®</sup> melphalan	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase III.
Amonafide	Knoll Pharmaceuticals (Whippany, NJ)		Phase II.
Aredia disodium pamidronate	CIBA-GEIGY (Summit, NJ)	Hypercalcemia of malignancy, bone metastases	Phase III.
Betaseron <sup>2</sup> interferon-beta	Berlex (Wayne, NJ)	(See also colon)	Do.
BMV-25067	Bristol-Myers Squibb (New York, NY)		Phase I.
BMV-28175	Bristol-Myers Squibb (New York, NY)		Do.
Bryostatin	Bristol-Myers Squibb (New York, NY)		Do.
Buthionine Sulfoximine	National Cancer Institute (Bethesda, MD)		Do.
CI-958	Warner-Lambert (Morris Plains, NJ)	Solid tumors	Do.
CI-980	Warner-Lambert (Morris Plains, NJ)	do	Phase I.
Crisnatol	Burroughs Wellcome (Rsch Triangle Park, NC)	(See also ovarian)	Phase II.
Decapeptyl <sup>™</sup> triptorelin pamoate	Organon (West Orange, NJ)	Cancer pain	Do.
Epidermal clonidine	Fujisawa (Deerfield, IL)		Phase III.
Etoposide Phosphate	Bristol-Myers Squibb (New York, NY)		Phase I.
Galamustine	Unimed (Somerville, NJ)		Do.
ImmuRAID-AFP	Immunomedics (Warren, NJ)	(See also liver)	Do.
ImmuRAID-LL-2	Immunomedics (Warren, NJ)	(See also lymphoma)	Do.
ImmuRAIT-LL-2	Immunomedics (Warren, NJ)	do	Do.
ImuVert Serratia marcescens extract	Cell Technology (Boulder, CO)		Phase II.
Interleukin-1 beta <sup>2</sup>	Syntex (Palo Alto, CA)	Hematopoiesis following cancer chemotherapy	Do.
Interleukin-3 <sup>2</sup>	Immunex (Seattle, WA) Behringwerke A.G. (subsidiary of Hoechst A.G., Marburg, W. Germany).	Chemotherapy-induced neutropenia	Phase I/II.
Interleukin-4 <sup>2</sup>	Sterling Drug (New York, NY)		Phase II.
Leucomax <sup>®</sup> granulocyte macrophage colony stimulating factor <sup>2</sup> (GM-CSF)	Genetics Institute (Cambridge, MA) Sandoz (East Hanover, NJ) Schering-Plough (Madison, NJ)	Adjunct to chemotherapy, bone marrow transplantation, hematological disorders.	Phase I/III.
Leukine <sup>®</sup> 2 sargramostin (GM-CSF)	Immunex (Seattle, WA) Behringwerke A.G. (subsidiary of Hoechst A.G., Marburg, W. Germany).	Chemotherapy-induced neutropenia	Do.
Macrolin <sup>®</sup> macrophage colony stimulating factor	Cetus (Emeryville, CA)		Phase I.
Piritrexim	Burroughs Wellcome (Rsch Triangle Park, NC)		Phase II.
Platinum I	Lederle (Wayne, NJ)		Do.
Platinum II	Lederle (Wayne, NJ)		Do.
Pyrazine diazohydroxide	National Cancer Institute (Bethesda, MD)		Phase I.
Radiol <sup>®</sup> etanidazole	Du Pont Merck (Wilmington, DE) Roberts (Eatontown, NJ)	Chemosensitizer, adjunct to chemotherapy, mouth (oral cavity) (see also bladder, lung, prostate).	Phase I/III.
RG-12915A	Rhone-Poulenc Rorer (Fort Washington, PA)	Prevention of emesis during chemotherapy	Phase II.
RG-83852	Rhone-Poulenc Rorer (Fort Washington, PA)	Adjunct for solid tumor treatment	Phase I.
RS-42358	Syntex (Palo Alto, CA)	Prevention of emesis during chemotherapy	Do.
R-verapamil	Knoll Pharmaceuticals (Whippany, NJ)	Reversal of multi-drug resistance to chemotherapeutic agents	Do.
Taxotere	Rhone-Poulenc Rorer (Fort Washington, PA)	Solid tumors	Do.

## CANCER MEDICINES IN DEVELOPMENT—Continued

Drug	Company	Other indications	U.S. development status
Tumor necrosis factor <sup>2</sup> (TNF)	Knoll Pharmaceuticals (Whippany, NJ)		Phase I/II.
<sup>1</sup> Approved for other indications.			
<sup>2</sup> Derived from genetic engineering.			

Note.—The content of this chart has been obtained through industry sources based on the latest information and is current as of May 17, 1991. The information may not be comprehensive. For more specific information about a particular product, contact the individual company directly.

Glossary: Actinic Keratoses (AK)—Roughness and thickening of the skin caused by overexposure to the sun's ultraviolet rays. AK can degenerate into a skin cancer called squamous cell carcinoma. Adjuvant—An auxiliary treatment that is secondary to the main treatment. Adjuvant—A substance of drug that aids another substance in its action. Application submitted—An application for marketing has been submitted by the company to the Food and Drug Administration (FDA). Cervical—Relating to the neck of the uterus. Emesis—Vomiting. Endometrial—Relating to the lining of the uterus (endometrium). Hematological—Relating to the blood. Hematopoiesis (following cancer chemotherapy)—the formation of blood or blood cells in the body. Hypercalcemia of malignancy—An abnormally high level of calcium in the blood, most commonly caused by secondary (metastatic) bone cancer, which releases calcium into the blood. Metastases—Areas of secondary cancer that have spread from the primary or original cancer site. Mycosis fungoides—A type of T-cell lymphoma of unknown cause. It primarily affects the skin, but in later stages of the disease often involves the liver, spleen and lung. Neutropenia—Caused by an abnormally low neutrophil count (certain white blood cells), leaving a patient vulnerable to bacterial and fungal infections. Phase I—Safety testing and pharmacological profiling in humans. Phase II—Effectiveness testing in humans. Phase III—Extensive clinical trials in humans.

### [In Development: New Medicines for Older Americans]

(Presented by the Pharmaceutical Manufacturers Association)

#### 1991 ANNUAL SURVEY: 116 MEDICINES TARGET 19 DEBILITATING DISEASES

America's research-based pharmaceutical companies are developing 116 medicines for 19 debilitating diseases that rob older people of their independence, according to the third annual survey of "New Medicines in Development for Older Americans." Among the medicines identified by the Pharmaceutical Manufacturers Association are therapies for Alzheimer's disease, arthritis, and osteoporosis, all major reasons for admittance to nursing homes.

The 116 medicines in this survey are being developed by 61 companies. The 1991 results show an increase of 40 medicines in development over the 1989 survey and 47 over the 1988 findings. Medicines for an additional 9 diseases were added to the survey this year. The new disease categories are: chronic obstructive pulmonary disease with 8 medicines in development, impotence with 2, influenza with 2, Paget's disease of bone with 4, pneumonia with 13, sepsis with 10, sinusitis with 5, urinary incontinence with 2, and urinary tract infections with 7.

Some of the 116 medicines are being developed for more than one use, resulting in 150 different research projects. Of these, 81 are in the final stages of development. Two of the medicines listed in development on the 1989 survey report have been approved. They are

Ultradol (Wyeth-Ayerst) for osteoarthritis and Wellbutrin (Burroughs Wellcome) for depression.

Among the leading areas of research, according to the survey results, are osteoporosis, Alzheimer's disease, arthritis, diabetes and depression. More information about survey results on these and the other important areas of research is contained in the table on this page. Details about the social and economic impact of these diseases can be found in the section inside titled "Facts about Other Debilitating Diseases."

These diseases exact an enormous burden on our society in terms of lost independence, which leads to high health care costs for institutional or home care. The medicines in development listed in this report hold great hope for limiting some of that burden.

Alzheimer's disease, which could affect as many as 5 million people by the year 2000, provides a clear example. The disease costs society \$88 billion a year, according to the Alzheimer's Association. More than half of all nursing home patients are victims of AD or a related disorder. The National Institute on Aging estimates that an Alzheimer's treatment that could keep 10 percent of patients out of nursing homes for one year could save nearly \$9 billion.

Longer, more productive lives and lower health care costs can be achieved with those new medicines in development that will one day be available to physicians to prescribe.

GERALD J. MOSSINGHOFF,

President, Pharmaceutical Manufacturers Association.

	1991	1989	1988
Summary of survey results:			
Total medicines in development for debilitating diseases	116	76	69
Total companies developing medicines for debilitating diseases	61	48	48
Total debilitating diseases surveyed	19	10	9
Survey results by development status:			
Phase I	16	12	12
Phase I/II	3	3	1
Phase II	31	27	23
Phase II/III	7	1	1
Phase III	48	33	26
Applications at FDA for review	33	17	17
In clinical trials	12	2	1
Survey results by disease:			
Alzheimer's disease	13	16	15
Chronic obstructive pulmonary disease	8	( <sup>1</sup> )	( <sup>1</sup> )
Depression	16	15	16
Diabetes, type I	3	5	( <sup>1</sup> )
Diabetes, type II	8	7	4
Glaucoma	3	3	3
Gout	1	2	2
Impotence	2	( <sup>1</sup> )	( <sup>1</sup> )
Influenza	2	( <sup>1</sup> )	( <sup>1</sup> )
Osteoarthritis	9	11	10
Osteoporosis	21	15	10
Paget's disease of bone	4	( <sup>1</sup> )	( <sup>1</sup> )
Parkinson's disease	5	5	6
Pneumonia	13	( <sup>1</sup> )	( <sup>1</sup> )
Rheumatoid arthritis	18	16	15
Sepsis	10	( <sup>1</sup> )	( <sup>1</sup> )
Sinusitis	5	( <sup>1</sup> )	( <sup>1</sup> )
Urinary incontinence	2	( <sup>1</sup> )	( <sup>1</sup> )
Urinary tract infections	7	( <sup>1</sup> )	( <sup>1</sup> )
Total research projects (reflects medicines in development for more than one use)	150	95	81

<sup>1</sup> Category was not included in survey that year.

#### MEDICINES IN DEVELOPMENT FOR OTHER DEBILITATING DISEASES

Drug	Company	Other indications	U.S. development status
Alzheimer's disease:			
Alcar acetyl-L-carnitine HCl	Sigma-Tau (Gaithersburg, MD)		Phase III.
Avan idebenone	TAP Pharmaceuticals (Deerfield, IL)		Phase II.
BC-PS phosphatidylserine	Fidia Pharmaceutical (Washington, DC)		Do.
BMV-21502	Bristol-Myers Squibb (New York, NY)	Adjunct to therapy, cognition enhancement	Do.
Cogener <sup>®</sup> tacrine	Warner-Lambert (Morris Plains, NJ)		Application submitted.
Dehydroepiandrosterone (DHEA)	Pharmacia (Kalamazoo, MI)		Phase I/II.
DuP 996	Du Pont Merck (Wilmington, DE)	Cognition enhancement	Phase II.
HOE 427	Hoechst-Roussel (Somerville, NJ)		Phase I/II.
HP 749 propylthiouracil	Hoechst-Roussel (Somerville, NJ)		Phase I.
Mentane <sup>™</sup> velnacrine maleate	Hoechst-Roussel (Somerville, NJ)		Phase II/III.
Nimotop <sup>®</sup> nimodipine	Miles Inc. (West Haven, CT)		Phase III.
Sabelzole	Janssen Pharmaceutica (Piscataway, NJ)		Phase II.
Synapton physostigmine salicylate	Forest Laboratories (New York, NY)	(See also urinary incontinence)	Phase III.
Chronic obstructive pulmonary disease (COPD):			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also pneumonia, sinusitis, urinary tract infections)	Phase II.
Cefpodoxime	Upjohn (Kalamazoo, MI)	Bronchitis (see also pneumonia, sinusitis)	Application submitted.
Floxin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ)	(See also pneumonia, sinusitis, urinary tract infections)	Do.
Maxivent <sup>™</sup> doxofylline	Roberts (Canton, NJ)		Phase III.
MEDR 440 adenosine	Fujisawa (Deerfield, IL) Medco Research (Los Angeles, CA)		Phase II.
Penetrex enoxacin	Warner-Lambert (Morris Plains, NJ)	(See also pneumonia, urinary tract infections)	Application submitted.
Sparflaxacin	Warner-Lambert (Morris Plains, NJ)	do	Phase I.
Theo-Nite theophylline anhydrous	Savage Laboratories (Melville, NY)		Application submitted.
Depression:			
1370U87	Burroughs Wellcome (Rsch. Triangle Park, NC)		Phase I.
Aropax paroxetine	SmithKline Beecham (Philadelphia, PA)		Application submitted.
BuSpar <sup>®</sup>	Bristol-Myers Squibb (New York, NY)		Phase III.
Fluparoxan alpha 2-antagonist	Glaxo (Rsch. Triangle Park, NC)		Phase I.
Fluvoxamine maleate	Reid-Rowell (Marietta, GA)		Phase III.
Gepirone	Bristol-Myers Squibb (New York, NY)		Do.
ICI-170,809	ICI Pharmaceuticals Group (Wilmington, DE)		Phase II.
Ipsapirone	Miles Inc. (West Haven, CT)		Phase III.
Nefazodone	Bristol-Myers Squibb (New York, NY)		Do.
ORG 3770	Organon (West Orange, NJ)		Do.
Prothiaden <sup>®</sup> dothiepin HCl	The Boots Company (Lincolnshire, IL)		Do.
Ritanserine	Janssen Pharmaceutica (Piscataway, NJ)		Phase IV/II.
Serpropine	Eli Lilly (Indianapolis, IN)	In clinical trials.	
Tomoxetine	Eli Lilly (Indianapolis, IN)	In clinical trials.	
Venlafaxine HCl	Wyeth-Ayerst (Philadelphia, PA)		Application submitted.

## MEDICINES IN DEVELOPMENT FOR OTHER DEBILITATING DISEASES—Continued

Drug	Company	Other indications	U.S. development status
Zolft sertraline	Pfizer (New York, NY)		Do.
Diabetes, type I (insulin-dependent):			
Alredase® tolrestat	Wyeth-Ayerst (Philadelphia, PA)	(See also type II diabetes)	Phase III.
Cisapride	Janssen Pharmaceutica (Piscataway, NJ)	do	Do.
Motilium® domperidone	Janssen Pharmaceutica (Piscataway, NJ)	Diabetic gastroparesis (see also type II diabetes, Parkinson's disease)	Application submitted.
Diabetes, type II (non-insulin-dependent):			
Alredase® tolrestat	Wyeth-Ayerst (Philadelphia, PA)	(See also type I diabetes)	Phase III.
Cisapride	Janssen Pharmaceutica (Piscataway, NJ)	do	Do.
Glimepiride	Hoechst-Roussel (Somerville, NJ) Upjohn (Kalamazoo, MI)	(See also osteoporosis)	Phase IV/III.
IGF	CIBA-GEIGY (Summit, NJ)		Phase II.
IGF-I	Chiron (Emeryville, CA)		Phase II.
Insulinotropin	Metabolic Biosystems (Mountain View, CA) Pfizer (New York, NY)		Do.
Motilium® domperidone	Janssen Pharmaceutica (Piscataway, NJ)	Diabetic gastroparesis (see also type I diabetes, Parkinson's disease)	Application submitted.
Pioglitazone	Upjohn (Kalamazoo, MI)		Phase II.
Glaucoma:			
Optipranolol™ metipranolol 0.1%	Bausch & Lomb (Tampa, FL)		Application submitted.
Timpilo®	Merck (Rahway, NJ)		Phase III.
Trusopt topical carbonic anhydrase inhibitor	Merck (Rahway, NJ)		Do.
Gout:			
Oxaprozin	Searle (Chicago, IL)	(See also osteoarthritis, rheumatoid arthritis)	Application submitted.
Impotence:			
Androtest-SL™ sublingual testosterone	Gynex (Vernon Hills, IL)		Phase II.
Quinelorane HCL	Eli Lilly (Indianapolis, IN)		In clinical trials.
Influenza:			
LY217896	Eli Lilly (Indianapolis, IN)		Do.
Thymosin Alpha 1	Alpha 1 Biomedicals (Washington, DC)	Influenza vaccine adjuvant	Phase II.
Osteoarthritis:			
Deflazacort	Marion Merrell Dow (Kansas City, MO)		In clinical trials.
Desogestrel and an estrogen	Organon (West Orange, NJ)		Phase III.
Norethindrone	Ortho Pharmaceutical Corp. (Raritan, NJ)		Phase I.
Ontosein® orgotein	DDI Pharmaceuticals (Mountain View, CA)		Phase III.
Oxaprozin	Searle (Chicago, IL)	(See also gout, rheumatoid arthritis)	Application submitted.
Relafen nabumetone	SmithKline Beecham (Philadelphia, PA)	(See also rheumatoid arthritis)	Do.
Tenidap	Pfizer (New York, NY)	do	Phase III.
Tenoxicam	Marion Merrell Dow (Kansas City, MO)	do	Do.
Voltaren® SR diclofenac sodium	CIBA-GEIGY (Summit, NJ)	Once-a-day regimen (see also rheumatoid arthritis)	Do.
Osteoporosis:			
Alendronate sodium	Merck (Rahway, NJ)		Do.
Aredia disodium pamidronate	CIBA-GEIGY (Summit, NJ)	(See also Paget's disease)	Do.
Calcimar® salmon calcitonin	Rhone-Poulenc Rorer (Fort Washington, PA)	do	Phase III (intranasal and injectable)
CI-376	Warner-Lambert (Morris Plains, NJ)		Phase I (aerosol).
Didronel® PMO etidronate disodium	Norwich Eaton (Norwich, NY)		Phase III.
Estraderm® estradiol, transdermal system	CIBA-GEIGY (Summit, NJ)		Application submitted.
Gestodene and estradiol	Berlex (Wayne, NJ)		Phase III.
Hectorol 1-alpha-hydroxy-vitamin D <sub>2</sub>	Bone Care International (Madison, WI)		Phase II.
Humatrope somatotropin	Eli Lilly (Indianapolis, IN)		Do.
IGF	CIBA-GEIGY (Summit, NJ)	(See also type II diabetes)	In clinical trials.
Miacalcin Nasal Spray® calcitonin salmon	Sandoz (East Hanover, NJ)	(See also Paget's disease)	Phase II.
Ogen® estropipate	Abbott (Abbott Park, IL)		Phase III.
ORTHO-EST	Ortho Pharmaceutical Corp. (Raritan, NJ)		Application submitted.
ORTHO-EST PLUS	Ortho Pharmaceutical Corp. (Raritan, NJ)		Do.
Osteo-F sodium fluoride, slow release	Colgate-Hoyle (Canton, MA)		Phase III.
Osteo-MFP sodium monofluorophosphate, slow release	Colgate-Hoyle (Canton, MA)		Do.
Risedronate	Norwich Eaton (Norwich, NY)		Do.
Slow-Fluoride sodium fluoride	Mission Pharmacal (San Antonio, TX)		Phase II.
Sublingual estradiol	Gynex (Vernon Hills, IL)		Application submitted.
WY-47,766	Wyeth-Ayerst (Philadelphia, PA)		Phase I.
Paget's Disease of Bone:			
Aredia disodium pamidronate	CIBA-GEIGY (Summit, NJ)	(See also osteoporosis)	Do.
Calcimar® salmon calcitonin	Rhone-Poulenc Rorer (Fort Washington, PA)	do	Phase III (intranasal and injectable)
Miacalcin Nasal Spray® calcitonin salmon	Sandoz (East Hanover, NJ)	do	Phase I (aerosol).
Parkinson's Disease:			
Cabergoline	Adia (Columbus, OH)		Application submitted.
Motilium® domperidone	Janssen Pharmaceutica (Piscataway, NJ)	(See also type I, type II diabetes)	Phase VII.
Pramipexole	Boehringer Ingelheim (Ridgefield, CT)		Phase III.
Rapinole	SmithKline Beecham (Philadelphia, PA)		Do.
Ro 19-6327	Hoffmann-La Roche (Nutley, NJ)		Do.
Pneumonia:			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also COPD, sinusitis, urinary tract infections)	Do.
Cefpodoxime	Upjohn (Kalamazoo, MI)	(See also COPD, sinusitis)	Application submitted.
Cytomegalovirus immune globulin intravenous (human)	Cutter Biological, Miles Inc. (Berkeley, CA)	CMV pneumonia in bone marrow transplant patients	Phase III.
Dirithromycin	Eli Lilly (Indianapolis, IN)	(See also sinusitis)	In clinical trials.
Floxin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ)	(See also COPD, sinusitis, urinary tract infections)	Application submitted.
Gamimune immune globulin intravenous (human) with DHPG	Cutter Biological, Miles Inc. (Berkeley, CA)	CMV pneumonia in bone marrow transplant patients (see also rheumatoid arthritis)	Phase IV/III.
H.R. 810 cefpirome	Hoechst-Roussel (Somerville, NJ)	(See also sepsis, urinary tract infections)	Phase III.
Lorabid™ loracarbef	Eli Lilly (Indianapolis, IN)	(See also sinusitis, urinary tract infections)	In clinical trials.
Penetrex enoxacin	Warner-Lambert (Morris Plains, NJ)	(See also COPD, urinary tract infections)	Application submitted.
Pentamidine	Rhone-Poulenc Rorer (Fort Washington, PA)		Do.
Pseudomonas immune globulin intravenous (human)	Cutter Biological, Miles Inc. (Berkeley, CA)		Phase III.
Sparfloxacin	Warner-Lambert (Morris Plains, NJ)	(See also COPD, urinary tract infections)	Phase I.
Spexil™ Sterile Powder trospectomycin sulfate	Upjohn (Kalamazoo, MI)		Phase III.
Rheumatoid arthritis:			
Azulfidine EN-Tabs® sulfasalazine	Kabi Pharmacia (Piscataway, NJ)		Application submitted.
Centara™ anti-CD4 MAb	Centocor (Malvern, PA)		Phase II.
CI-972	Warner-Lambert (Morris Plains, NJ)		Phase I.
Ebselen	CIBA-GEIGY (Summit, NJ)		Phase I.
Gamimune immune globulin intravenous (human)	Cutter Biological, Miles Inc. (Berkeley, CA)	(See also pneumonia)	Phase IV/III.
Immuneron® recombinant gamma interferon	Biogen (Cambridge, MA)		Phase II.
IMREG®-1	Imreg (New Orleans, LA)		Do.
Lodine® etodolac	Wyeth-Ayerst (Philadelphia, PA)		Phase III.
Oxaprozin	Searle (Chicago, IL)	(See also gout, osteoarthritis)	Application submitted.
Relafen nabumetone	SmithKline Beecham (Philadelphia, PA)	(See also osteoarthritis)	Do.
RS-61443	Synflex (Palo Alto, CA)		Phase II.
Sandimmune® cyclosporine	Sandoz (East Hanover, NJ)		Phase II.
Spiro-32® spirogermanium HCL	Unimed (Somerville, NJ)		Phase III.
Tenidap	Pfizer (New York, NY)	(See also osteoarthritis)	Phase II.

## MEDICINES IN DEVELOPMENT FOR OTHER DEBILITATING DISEASES—Continued

Drug	Company	Other indications	U.S. development status
Tenoxicam	Marion Merrell Dow (Kansas City, MO)	do	Do.
Therafectin amiprilose HCL	Greenwich Pharmaceuticals (Fort Washington, PA)		Do.
Voltaren® SR diclofenac sodium	CIBA-GEIGY (Summit, NJ)	(See also osteoarthritis)	Phase III.
XomaZyme—CD5-Plus	Xoma (Berkeley, CA)		Do.
<b>Sepsis:</b>			
Anti-TNF MAb	Chiron (Emeryville, CA) Miles Inc. (West Haven, CT)		Phase II.
CentTNF anti-TNF MAb	Centocor (Malvern, PA)		Phase I.
Centaxin® HA-IA anti-endotoxin MAb	Centocor (Malvern, PA)		Application submitted.
Dapcin® daptomycin	Eli Lilly (Indianapolis, IN)		In clinical trials.
E5™ anti-endotoxin MAB	Pfizer (New York, NY) Xoma (Berkeley, CA)		Application submitted.
H.R. 810 cefpirome	Hoechst-Roussel (Somerville, NJ)	(See also pneumonia, urinary tract infections)	Phase III.
Human MAB for septic shock	Cetus (Emeryville, CA)		Phase IV/III.
ImmuRAID-MN3	Immunomedics (Warren, NJ)		Phase I.
MPL™ monophosphoryl lipid A	Ribi ImmunoChem (Hamilton, MT)		
Murine MAB to tumor necrosis factor	Cutter Biological, Miles Inc. (Berkeley, CA)		Phase IV/III.
<b>Sinusitis:</b>			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also COPD, pneumonia, urinary tract infections)	Phase II.
Cefpodoxime	Upjohn (Kalamazoo, MI)	(See also COPD, pneumonia)	Application submitted.
Dirithromycin	Eli Lilly (Indianapolis, IN)	(See also pneumonia)	In clinical trials.
Flonin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ)	(See also COPD, pneumonia, urinary tract infections)	Application submitted.
Lorabid™ loracarbef	Eli Lilly (Indianapolis, IN)	(See also pneumonia, urinary tract infections)	In clinical trials.
<b>Urinary incontinence:</b>			
Amatine® midorine HCL	Roberts (Eatontown, NJ)		Phase II.
Synapton physostigmine salicylate	Forest Laboratories (New York, NY)	(See also Alzheimer's disease)	Phase III.
<b>Urinary tract infections:</b>			
Cefdinir	Warner-Lambert (Morris Plains, NJ)	(See also COPD, pneumonia, sinusitis)	Phase II.
Flonin IV ofloxacin	McNeil Pharmaceutical (Spring House, PA) Ortho Pharmaceutical Corp. (Raritan, NJ)	do	Application submitted.
HR 810 Cefpirome	Hoechst-Roussel (Somerville, NJ)	(See also pneumonia, sepsis)	Phase III.
Lorabid™ loracarbef	Eli Lilly (Indianapolis, IN)	(See also pneumonia, sinusitis)	In clinical trials.
Penetrex enoxacin	Warner-Lambert (Morris Plains, NJ)	(See also COPD, pneumonia)	Application submitted.
Spartloxacin	Warner-Lambert (Morris Plains, NJ)	do	Phase I.
Temafloxacin	Abbott (Abbott Park, IL)		Application submitted.

Note.—The content of this chart has been obtained through industry sources based on the latest information and is current as of May 17, 1991. The information may not be comprehensive. For more specific information about a particular product, contact the individual company directly.

Mr. LAUTENBERG. I point particularly to the sections on breast cancer where we have companies like Bristol-Myers, Squibb, Lescarden, Warner-Lambert, U.S. Bioscience, Eli Lilly, SmithKline Beecham, Lederle, Sandoz, the National Cancer Institute, and others have drugs in the research and development pipeline that may prevent breast cancer from overtaking persons lives or result in disfiguring surgery.

Colon cancer. A page and a half of companies, Mr. President, which are developing products that may provide some relief from or some possibility of avoiding colon cancer.

Prostate cancer. We all know what that is about. We lost a distinguished colleague in this body, Senator Matsunaga, to prostate cancer. It is public knowledge that several of our friends and colleagues have had surgery, have had radiation, have had treatment for prostate cancer. There are 132,000 new cases of prostate cancer each and every year, and 34,000 deaths annually.

Do we want to cut off the possibility of preventing these tragedies, Mr. President? Isn't it worth rewarding these companies for their research and development? Isn't it worth encouraging their continued expansion and search for new products? There is not any one of us who does not recognize that as we age, fortunate though we may be, that we face risks out there that perhaps can be avoided. But if we make it impossible for these companies to take the risk, then we also are saying that it is not worthwhile for them to develop lifesaving drugs. And when we look at an aging parent or a child or a sister or a brother who can be helped by one of these products, what we should say is onward and upward, go ahead and make the investment.

Who is going to pay for it? Companies have to have an opportunity to recoup their investments made to develop these products. This amendment could dash the hopes of many afflicted with diseases for which lifesaving therapies are being developed at this very moment.

This amendment would also devastate the economy of Puerto Rico, resulting in increased U.S. taxpayer expenses for unemployment benefits, welfare, and other public assistance programs to those dislocated by the bill. This amendment would undercut the Possessions Tax Credit or what is commonly called section 936. Section 936 is an integral part of the Puerto Rican economy. U.S. companies who utilize the section 936 tax credit employ approximately 117,000 persons in Puerto Rico. This is 13 percent of the total employment and 72 percent of the total manufacturing employment. This amendment seeks to reduce this tax credit to pharmaceutical companies who manufacture their products in Puerto Rico.

What will this mean for Puerto Rico? It will likely drive many of the pharmaceutical companies out of Puerto Rico to Pacific rim countries like Singapore. It will also harm an industry that has been adding three times as many jobs to Puerto Rico as any other industry, from 1980 to 1990. Senators on the Finance Committee know how integral the 936 tax credit is to the Puerto Rican economy.

Mr. President, the Senate leadership has made health-care reform a priority in this session of Congress. There are currently over 30 comprehensive health-care reform bills pending in the Congress. I hope we will move to consider and enact reforms this year.

An effective, comprehensive health-care reform measure should assure universal access to quality health care for all Americans and containment of skyrocketing health-care costs. We need comprehensive health-care reform. We also need to reduce the out-of-pocket costs of health care for our Nation's senior citizens.

I close, Mr. President, with a restatement of something I touched on earlier. There are 4 million Alzheimer's sufferers in our country right now. Anybody who has seen the result of that condition knows how painful, how devastating it is to see someone you have known in the prime of health suddenly not know which way to turn, who they are, where they are, where they are going. By the year 2050, unless we develop effective therapies, 14 million people in America will be suffering from Alzheimer's.

I also want to mention Parkinson's disease. My mother was a Parkinson's sufferer. We have a million and half total cases of Parkinson's. And when one sees someone they love in a Parkinsonian condition, one would like to see that pain ended. More importantly, not to see anybody else have to suffer from that horrible disease.

One in every hundred persons over 60 years of age is likely to come down with Parkinson's. There are products in the pipeline to deal with Parkinson's. Prostate cancer, there will be 132,000 new cases this year alone. I said it before. I think it is worth restating, 34,000 deaths expected. This is not a threat a male American should look forward to in his older years.

As I mentioned earlier, there are half a dozen companies working on products to treat Parkinson's SmithKline Beecham, Hoffman-LaRoche, Janssen

Pharmaceutical. God willing that they come up with an answer.

So that is the consideration, Mr. President. That is what we are talking about as we look at this. We are not saying that we encourage outrageous profits or that we ought to pay these executives such giant salaries. Fortune magazine has picked Merck 7 years running as the most admired management in the country. That tells you about the industry that we are discussing today. The last thing that we ought to do in this body, is to hinder, the pharmaceutical industry's capacity to develop new lifesaving drugs.

Mr. President, unfortunately this amendment does just that, and I hope that my colleagues will oppose it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, our list of speakers seems to be growing. I am going to propose a unanimous-consent request here so that we try to establish some order in the order of the speakers.

First, Mr. President, I was recognized to speak immediately following the remarks of Senator LAUTENBERG. I ask unanimous consent that Senator METZENBAUM fill that slot instead of me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Following Senator METZENBAUM will be Senator HATCH, who is already on the list, and then following Senator HATCH I ask unanimous consent that Senators be recognized in this order: Senators DODD, LIEBERMAN, BROWN, COATS, BRYAN, BAUCUS, and WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I think there will be other speakers we will add to the list a little later in the afternoon.

Mr. President, I ask unanimous consent that immediately following the statement of the Senator from Indiana [Mr. COATS] that I be recognized to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank my distinguished colleague from Arkansas for permitting me to speak at this point. But I thank him for much more than that. I thank him for his leadership in connection with this amendment. This amendment is a major step forward in the effort to bring down the cost of pharmaceuticals in this country.

Senator PRYOR deserves enormous credit for his tireless efforts to address the issue of skyrocketing drug prices in our country.

Prescription drug prices have been rising almost three times as fast as the rate of inflation. Prescription drug

costs are rising faster than any other aspect of health care costs. And we all know, and the country knows that health care costs are generally zooming upward. But prescription drug costs are going up three times as high or higher than any other health care cost.

Drug prices have increased approximately 9 percent a year for the past decade, an increase of 142 percent. The unregulated pharmaceutical industry overcharges for drugs so that it can spend billions of dollars marketing its products and making exorbitant profits.

The drug industry spends \$10 billion a year on marketing and advertising, more than it spends for research on new drugs. There is not any of us who own a TV set that is able to turn on the TV set without seeing, in the course of a half-hour program, two, three, four, or five ads marketing pharmaceutical drugs. And it is understandable. The kinds of prices that are charged per pill, per dosage, per day, per bottle, are unbelievable. It is hard to believe that a company could charge so much for such a tiny pill.

With the special arrangements that we have given them under our tax laws, pharmaceutical manufacturers' profits have been zooming. The top 10 drug manufacturers earned profits of 15½ percent on their sales in 1990, three times more than the average profit of other industries.

We in the United States Senate have an obligation to bring drug prices under control. The American people cannot afford to pay any more. We cannot afford to do any less.

Prescription drug costs are the largest out-of-pocket medical costs for elderly Americans. Over half of all older Americans, 16 million senior citizens, do not have insurance for prescription drug costs.

And what a travesty. Some people living on Social Security, having but a meager income, are called upon to pay exorbitant prices for the pharmaceuticals that their doctors prescribe.

Senator PRYOR's amendment, of which I am a cosponsor is a step in the right direction. It does three important things. First, it links the availability of certain lucrative tax credits for the drug industry to the industry's drug pricing behavior. The amendment would limit the availability of the so-called section 936 tax credit to those drug companies that keep their drug prices in line with the general inflation rates. I commend the Senator from Arkansas for this innovative thinking in trying these two subjects together.

Companies that overcharge for drugs would no longer be subsidized by the American taxpayers. There is no justification for this \$2 billion a year tax credit when drug company profits exceed all other industry profit levels.

Second, the amendment creates 15 demonstration programs to provide af-

fordable prescription drugs to older individuals. The program uses the tax credit savings to help individuals who cannot afford to pay for prescription drugs.

Third, the amendment sets up a commission to gather data on the pharmaceutical industry's drug pricing behavior and make recommendations to bring drug prices under control.

This bill takes an important first step toward solving the problem of skyrocketing drug prices. As the Senator from Arkansas well knows, since the enactment of the Medicaid Discount Drug Program in 1990, the pharmaceutical industry has increased its drug prices significantly for all purchasers, including Government programs like the Veterans Administration and Medicaid. That gouging of the most vulnerable in our society must stop.

The Medicaid Discount Drug Program legislation enacted in 1990 was passed and supported by the Members of Congress because it was thought that it would bring prices down to the lowest level at which the drug company was selling their product. But, oh, no, the drug companies did not go that way. They reversed it.

Oh, they were smart. Their lawyers were brilliant. What they did is they reversed it so that the lower prices came up to the higher prices rather than the higher prices coming down to the lower ones.

We need to attack the entire problem of uncontrolled drug price increases. Congress has an obligation to guarantee that all Americans will be able to receive lifesaving prescription drugs.

We here in this Congress are faced with one of our most difficult challenges. We are wrestling with an idea, with what kind of a concept we should bring forth in order to deal with the national health care program. We have not been able to solve that problem. We are moving forward. There are a number of different proposals that are on the table. There was no suggestion that this legislation will solve the problem of our need for a national health care program.

But there is not much doubt about the fact that this will help those persons who need pharmaceuticals, who cannot afford to pay for them, who have been gouged by the pharmaceutical manufacturers. This will provide some equity.

I urge all of my colleagues to support the Pryor amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, this is a very important issue. I would like to start off by pointing out that this industry, the pharmaceutical industry, in the United States of America is one of our best industries. As a matter of fact, this chart comes straight out of Fortune magazine. On this scorecard,

in 13 key industries, the grades measure United States competitiveness relative to Japan and Europe. They reflect production data, company performance, and expert opinion.

At the very top of that list happens to be pharmaceuticals. The only other company, the only other industry in America that comes close is forest products.

Now the Congress, if they pass this kind of bill, is going to do the same thing to pharmaceuticals that we have done to almost every other industry in this country. We have made our industries noncompetitive because we do not understand that the thing that drives this economy—the thing that drives the greatest free enterprise system in the world—happens to be the incentives of opportunity.

The pharmaceutical industry, with all of the risks they take and all of the expenses they incur, happen to be driven for free market incentives. We happen to be doing the best job in developing new drugs of any nation in the world. And we have more major drugs in the pipeline than any country in the world.

Many countries that are being cited as illustrations of countries with lower drug prices are countries that have not developed a new drug in decades.

Now what are we going to do through overregulation and price regulation? We are going to knock pharmaceuticals from the top of this list. From an A, the leader of the world, down to probably a C or a D. Even if it were only to be a B. And maybe that is all that will happen it would still be a B. Why should we not keep this the greatest industry in our country today? I am going to have more to say about this a bit later.

Mr. President, our esteemed colleague, Senator PRYOR, has offered an amendment to the tax package identical to his bill S. 2000 entitled "The Prescription Drug Cost Containment Act." I am struck by the irony of this amendment. The intent of the tax package we are considering today is for economic growth. Whether one believes that H.R. 4210 will work to advance this purpose or not, we are all here trying to find a way to stimulate our economy.

Senator PRYOR's amendment, ironically, singles out one of our few truly healthy industries and attempts to introduce wage and price controls through the back, or perhaps more accurately the side door. The pharmaceutical industry shows many signs of being a relatively healthy industry. The best in our country.

In the period from 1984 to 1990, the level of employment in the pharmaceutical industry increased by 25.5 percent. This contrasts sharply with the employment growth rate of manufacturing industries as a whole of 0.9 percent. Compare that: 25.5 percent in-

crease in employment compared with 0.9 percent.

Now we are proposing to ruin that industry with overregulatory drug and price controls?

The United States pharmaceutical industry production rose 145 percent between 1980 and 1989, outpacing both Europe—at 107 percent, ours is 145 percent—and Japan, 121 percent. Our production is at 145 percent, outpacing those hugely industrialized and sophisticated and high-tech countries.

The United States remains the world center for research and development in the drug field. The drug industry this year will invest nearly \$11 billion in research and development for future products. This investment for the future by the pharmaceutical industry has been growing at an average annual rate of about 10 percent per year for the past 10 years.

Yes, they make profits. That is why they are growing. That is why they are the number one industry in this country. That is why they are developing major new drugs, and drugs that will save people's lives.

The United States leads the world in biotechnology and genetic engineering patents. We lead the world. And the reason we do is because we have the incentives in this country.

I do not come from a State where we have a large pharmaceutical industry. In fact, we hardly have any pharmaceutical companies that are located in Utah. But I deal and have dealt with the health matters of this country every day of my tenure in the Senate, and I have, over the last 16 years, dealt with practically every major health issue that has come along. I can tell you I am very concerned about amendments like these.

For biotech patents, the United States holds 147 as compared to 10 for Japan; 10 for European countries; and 10 for all other countries in the world. Think about it. Guess where those biotechnology companies get their financing? Primarily, they get their financing from the major pharmaceutical companies, investing in these new fledgling biotech companies.

For genetic engineering patents—genetically engineered drugs that are the future—United States companies hold 72 percent of the total of 935 patents, with the Japanese and European countries splitting about 22 percent of the total patents. Japan and Europe hold just 22 percent of these patents in the United States. We have actually 72 percent of all of those genetic engineering patents. This is the future, my friends. We hold the key to the future. And the reason we do is because of free market incentives, because we believe in the free market system.

As a general rule, our country is willing to pay for that system. The reason we are is because these free market incentives will get us to lifesaving healing drugs faster and safer.

I wish all the American industries were as vigorous as the pharmaceutical industry. If they were, we would not be here today discussing how to develop an economic package or how to help our country economically.

I have a lot of respect for my colleague from Arkansas. He is a good friend, and I understand his personal motivation and objectives. But I have to disagree with him on the wisdom of this proposal.

This amendment would change all the free market incentives that have caused the pharmaceutical industry to flourish. It will replace all of those free market incentives with a form of price controls. No matter what Senator PRYOR says about it, that is what it comes down to. We are supposed to believe that these price controls will not have an adverse effect on the pharmaceutical industry.

Who is kidding whom that these price controls will not result in a reduction in the amount of money that the industry devotes to research and development? Who is kidding whom that these price controls will somehow be different from those we have tried before—all of which have failed before, I might add. We are assured that these price controls will somehow work without harming this healthiest of all American industries.

Mr. President, I do not share this faith in price controls at any time but particularly at a time when many American industries are not faring well. We cannot afford to have this American industry, our American pharmaceutical industry, be yet another industry overtaken by foreign competition.

A lot has been said and will be said in this debate about the profitability of the pharmaceutical industry.

First, we have to remember that the U.S. pharmaceutical industry is highly competitive. The share of total sales by the 20 largest firms accounts for 75 percent of total sales. All other firms account for the remaining 25 percent market share. No one firm holds more than a 7.6-percent market share.

Second, this is one of the highest risk industries in the world. A recent study by Duke University found that only 3 out of every 10 drugs introduced between 1970 and 1979 subsequently recovered their research and development costs. This study concluded that the real drug price increases in the 1980's were necessary for the average new drug introduction to recover its R&D costs.

Those data are from a Duke University study.

The high risk nature of the industry is reflected in the volatility of the stock prices; about 40 percent greater than for other industries according to the Standard & Poor's 500 index.

Some will see the drug industry's relative strength and take it as fair game

for increased taxation to help finance the problems of our ailing health care system. Others will take a different view and conclude that this is an area where America is the recognized world leader.

We do not say that as often as we once did, or should say again in the future. And we should make no policies detrimental to this sector's health. Instead we should find ways to promote and build upon our leadership in the pharmaceutical industry as we enter the biological revolution of the 21st century.

This does not mean that drug companies do not have the same responsibility for fair play as automobile manufacturers, computer firms, or any other U.S. industry but neither should they be singled out for the heavy burden of price controls. Let us not lose sight of the fact that in a competitive environment success is not guaranteed. In our market economy, profits are the clearest signal for future investment and productive activity. If we are to break out of this recession and succeed in the competitive world economy we have to nurture, not injure, American companies. The American public is concerned about the cost of health care.

Drug expenses are one of the most visible out-of-pocket health care costs, and they are an easy target for concern.

The cost of prescription medicines has increased with all other consumer and health care costs. It is relatively easy for us to look at medical care inflation data and falsely conclude that prescription drugs are the reason.

Mr. President, I hope the Senate will reject this amendment. We should reject it on the overwhelming evidence that price controls do not work. The stick being applied here, threatened revocation of section 936 tax incentives, will hurt not only the United States and Puerto Rico, U.S. workers are going to bear this punishment. Our competitors are not going to bear it. They are going to benefit from this type of, I think, shortsighted legislation. We are targeting a highly competitive and high risk industry. Profits are the fuel it runs on. Reducing profits by Federal fiat is like reducing the fuel supply for a job-generating machine. We should reject this amendment.

Mr. President, I understand the distinguished Senator from Connecticut would like to make about 10 minutes worth of remarks. I have just begun my remarks. I have a number of charts I would like to show. But I also want to show deference to my colleague from Connecticut.

And so I ask unanimous consent that I be permitted to yield to the distinguished Senator from Connecticut for 10 minutes, and then have the right to the floor back so I can finish the rest of my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I do not plan to object.

Mr. President, I may owe an apology to my friend from Utah and my other colleagues in the Chamber. A moment ago when we proposed and had accepted a unanimous-consent request on the order for speakers this afternoon, I inadvertently, Mr. President, left out two Senators who had come to me prior to that request for the UC. One of those was Senator PHIL GRAMM of Texas, and the other was Senator PAT LEAHY of Vermont.

So, Mr. President, I do not object to the Senator's request, and I would further add to that unanimous consent request that immediately following Senator DODD, and then the conclusion of Senator HATCH's remarks, at that time we recognize Senator PHIL GRAMM and Senator PAT LEAHY.

Mr. HATCH. If the Senator will yield, Senator CHAFEE is also desirous of being on the list.

Mr. PRYOR. Mr. President, I have another request.

Mr. HATCH. Senators CHAFEE, BROWN, and DURENBERGER have all requested time.

Mr. PRYOR. Senators DURENBERGER and CHAFEE are at the point right now following myself. And then I would like to ask unanimous consent to add Senator DIXON of Illinois following the remarks of Senator CHAFEE.

Mr. HATCH. Will the Senator yield? Will he also add Senator BROWN. Is he on the list?

Mr. PRYOR. Yes; Senator BROWN from Colorado is on the list.

The PRESIDING OFFICER (Mr. SIMON). Is there objection to the unanimous-consent request from Senator PRYOR and Senator HATCH? Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

Mr. President, it is with a great deal of reluctance that I rise in opposition to the amendment being offered by my good friend from Arkansas, Senator PRYOR.

The Senator has worked on this issue for years. He cares about it deeply. Without any question, he expresses the overwhelming sentiments of literally millions of people in this country who are deeply worried about the cost of health care.

My concern here, Mr. President, is that while the Senator from Arkansas is accurately reflecting those concerns, the issue is whether or not the solution he has chosen will most effectively deal with the problem. I believe the Senator's solution will simultaneously create other problems, problems that many of the same people who are expressing their outrage over prices

would also express were they denied access to some of the critical products that are being developed. This is particularly true for a population that is aging and enjoying substantial longevity as a result of some of the products that have been put on the market.

Mr. President, I am deeply concerned about the relationship between the cost of drugs and the ability of citizens in my State and elsewhere across the Nation to receive quality health care service appropriate to their needs. I am particularly concerned about access to drug treatments and therapies for retired or older Americans, those whose fixed income and limited insurance coverage make them most vulnerable to drug price increases.

I believe that we can and should take steps in the context of broader health care reform to help moderate drug prices and to ensure access to affordable drug treatments for those who need them.

But I do not believe that the answer is to impose Government mandated price controls in isolation; controls that could restrict the research and scientific breakthroughs that lead to these treatments in the first place; controls that would have very little effect on health care inflation without serious cost containment throughout the entire system.

Mr. President, as we debate the critical need to promote job growth and long-term investment in our economy—the first and foremost goal of legislation now before the Senate—it would be the height of irony to include an amendment that would stifle the growth and creativity of the most globally competitive industry in this country.

The fact is, the pharmaceutical industry is our Nation's premier high-technology industry—where today's business creates tomorrow's therapeutic breakthroughs. It is a highly innovative industry that has long led the world in discovering and developing new medicines.

According to a recent article in Fortune magazine, the U.S. pharmaceutical industry is one of only two industries in the Nation that enjoys a competitive advantage over its Japanese and European counterparts that will last well into the next century.

While overall research spending in the United States has declined compared to our major competitors, the pharmaceutical industry has managed to double its research spending every 5 years. Investment in drug research and development has increased from \$600 million in 1970 to nearly \$11 billion in 1992, including an increase of 13.5 percent in the last year alone.

The arbitrary price controls embodied in Senator PRYOR's amendment would inevitably disrupt the carefully balanced system of market pricing, research incentives, and short-term pat-

ent protections that is the key to this strong research commitment. There would be little or no incentive for the risky research necessary to make new discoveries, considering that for every product brought to market, 4,000 end up as dry holes or investments with no return.

Clearly, U.S. pharmaceutical research represents money wisely spent. Of the 97 new world class drugs introduced between 1975 and 1989, 47 originated in the United States.

U.S. manufacturers are also leading the world in the development of important new genetically engineered therapies and have helped lead the attack against such killers as AIDS, cancer, Alzheimer's disease, cardiovascular diseases and diseases afflicting children. As the Nation gets older, pharmaceutical firms are developing at least 330 medicines for the major diseases of aging, 88 medicines are in development for AIDS and AIDS-related conditions, and 14 AIDS therapies have already been approved, including 2 for the full-blown disease itself. That is a remarkable record considering that the HIV virus that causes AIDS was only identified by researchers less than a decade ago.

Thanks largely to this long-term investment in research and development, the pharmaceutical industry is one of the few manufacturing industries in the country that is actually creating jobs for American workers. Pharmaceutical industry employment increased by 25.5 percent between 1984 and 1990, compared with job growth of less than 1 percent in manufacturing as a whole. In my home State of Connecticut, new pharmaceutical jobs in the southeastern area of the State represent one of the few positive signs in a region that has been devastated by defense industry cutbacks. All told, pharmaceutical firms employ over 12,000 Connecticut citizens, and are one of the largest sources of employment in the State.

Mr. President, in the debate over drug prices, we tend to ignore the fact that today's new medicines can provide cost effective alternatives to more costly medical care. These medicines help to reduce reliance on expensive surgeries and hospitalizations and can help keep older Americans out of nursing homes.

According to Dr. Joseph DiMasi, a research associate at the Center for the Study of Drug Development at Tufts University:

Drug therapies that initially seem expensive may yield savings in other segments of the health care sector or in society at large. For example, treatment with a new drug may substitute for other medical interventions, many of which take place in a hospital setting. Thus, a new drug might reduce the number of hospital admissions or the length of hospital stays. Given the rising costs of hospital care, there is a potential to significantly lower health care costs.

March 1990 report prepared by the respected Battelle Memorial Institute found that over the past 50 years, antibiotics have helped Americans avoid between 60,000 and 90,000 deaths from tuberculosis. This represents a savings of between \$7.4 and \$11 billion. Vaccines have helped society avoid nearly 1 million cases of polio. About 400,000 of those cases would have caused serious disabilities. The economic cost to society would have been between \$26.4 and \$30.8 billion in lost productivity and another \$1.3 billion in direct treatment expenses. In the case of coronary heart disease, new medicines helped to save an estimated 671,000 lives between 1968 and 1978 alone. The Battelle Memorial Institute concluded the savings involved just in the coronary heart area saved an impressive \$83.8 billion.

It would be easy for us to pass the amendment now before us and claim credit for lowering the price of medicines by a few cents for each prescription.

We would lose far more in cost-effective new treatments that might never be developed; in the decline of research and investment in the most competitive industry in our Nation; in new jobs for American workers that might never be created. We simply have to find a better way to address access and price problems in the pharmaceutical arena.

This issue can and should be addressed in the context of a broader debate over insurance access and cost containment in the entire health care system. We must also continue to press the drug companies to impose voluntary price restraints and to assist those hardest hit by drug price inflation.

We have already made remarkable progress. In 1991, the Producer Price Index for pharmaceuticals showed an annual increase of 7.1 percent, the lowest prescription drug hike in more than a decade. Within the past few months, six major companies, which account for one-third of all U.S. sales of prescription drugs, have voluntarily pledged to limit price increases to the rise in the Consumer Price Index.

In addition, the Senate will soon consider legislation reported last month by the Committee on Labor and Human Resources that requires drug companies to provide deep discounts on prescription drugs to public health clinics. This measure builds on the Medicaid prescription drug rebate program enacted in 1990 that requires drug companies to provide rebates to State Medicaid programs. The Medicaid Program has substantially reduced the cost of drugs for low-income Americans and will result in Medicaid savings of some \$580 million in 1992 alone.

Mr. President, in many ways, the debate over drug price controls is a microcosm of the broader debate over comprehensive health care reform. We can build on the quality and innova-

tion of the present system by improving access and affordability through workable reforms. Or we can succumb to frustration and impose Government mandates and controls that will stifle research and creativity and reduce the quality of care for most Americans.

The choice is clear.

So I urge, with all respect to the author of the amendment and others who may be considering it, that we reject this amendment, that we deal with the comprehensive problems of health care, and not succumb to the temptation of this amendment which would do far more harm than good.

The PRESIDING OFFICER. Under the previous unanimous consent agreement, the Senator from Utah is now recognized.

Mr. HATCH. Mr. President, I understand that the distinguished Senator from Vermont would like a few minutes, and I ask as under the same unanimous-consent request, that he be given 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I thank the Senator from Utah for his courtesy.

Mr. President, I want to state for the record why I support the amendment offered by Senator PRYOR. When you look at this amendment, you realize that it takes aim at the most difficult problem plaguing health care today, the problem of out-of-control costs. It does so by sending a very powerful message to the pharmaceutical industry that the outlandish pricing practices that make prescription drugs unaffordable for millions of Americans will no longer be tolerated.

Over the past months I have held town meetings all over the State of Vermont. I have been in Bennington, Brattleboro, Middlebury, and virtually everywhere else. I have heard hard-working Vermonters say they are afraid one illness, one illness, could strip them of what matters most—being able to provide for their families. These are proud and good people, who have always provided for their families, but are afraid with just one illness they will not be able to do what generations of Vermonters have done.

For too many Americans, seeing a doctor, paying for medications, is far too expensive. Too many mothers and fathers spend sleepless nights wondering if they should use their limited budget for food or for medical care. Too many elderly Americans worry about whether they are going to have to choose between buying food, or fuel for heat, or paying for prescription drugs.

This amendment gives us the opportunity to do something to alleviate that fear, and begin to bring prescription drug prices under control.

Here are the facts:

Prescription drug prices continue to rise at three times the rate of inflation.

At this rate, a prescription drug that cost \$20 in 1980 will cost the average American a whopping \$121 by the year 2000.

Drug companies charge Americans top dollar for prescription drugs—much more than they charge citizens of other industrialized nations. Let us use some examples. The average American pays 62 percent more for prescription drugs than the average Canadian does, and 54 percent more than the average European for the same medication. Tylenol 3, a commonly prescribed pain killer, costs us \$18.13, while Canadians pay only \$5.58. The proof is there.

Who suffers? The elderly, the poor, and every American who depends on medications to make them healthy. Who gains? The drug industry whose 1990 profits were three times greater than most other American companies.

This amendment offers the drug industry a choice, either curb costs so that prescription drugs are more affordable for Americans, or lose Federal tax credits. It is not a regulation. It is a carrot-and-stick approach. Drug manufacturers that keep their price increases at the general rate of inflation are not going to be penalized. Only those companies that continue to hike the prices of drugs above the inflation rate are going to see their nonresearch and development tax subsidy reduced—a very, very powerful carrot and stick.

The choice is still theirs, but the taxpayers of America should not have to pay for it if they make the wrong choice.

The amendment offers every Senator a clear choice as well, and it comes down to this. A vote for this amendment is a vote for fairness; a vote to end the greed that has allowed the drug industry to ripoff the American people. A vote against this amendment is a vote for the status quo and continued price gouging. The amendment is about standing up to the drug industry, and at the same time standing up for all Americans.

I hope, Mr. President, that we realize what the cost of prescription drugs is doing to Americans. I think every Senator can do as I do, go home on the weekends and just talk to the people on the street. Ask them if they fear the price of prescription drugs; ask them if this forces them to make painful choices in their lives, choices that nobody in the most wealthy, powerful nation on Earth should have to make.

Certainly when you go to a State like mine, bordering on another country where the prices are a lot less, you know how much more it hurts to make those choices. We can make choices here. We can do something today to help the people who do not have the wealth to take care of their health needs.

Mr. President, prescription drugs can mean the difference between life and death, but they help no one if they are

unaffordable. Controlling prescription drug costs is absolutely necessary because these skyrocketing costs are busting families' budgets and the country's health care budget. I urge Senators to support this amendment.

Mr. President, again, I thank the Senator from Utah.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Utah is again recognized.

Mr. HATCH. Thank you, Mr. President. I appreciate that.

I will tell you this: There is one thing that the people in Vermont, Utah, and everywhere else think more than anything else; they are worried sick about the cost of medicine, the cost of medical care, and the cost of pharmaceuticals. But they are worried even more that we will not have the cures in the future for AIDS, and cancer, and other diseases. We need the incentive for industry to get out there and do it.

Mr. President, let me take a few minutes to present some information that I think will help put into perspective some key issues with respect to the pharmaceutical industry. In order to assist me in this, I am going to use a series of charts.

This chart No. 1 is U.S. health care expenditures as a percent of GNP. Health care expenditures happen to be this red bar. As you can see, health care expenditures are skyrocketing. Starting back here in 1960, at 5.3 percent of the gross national product, they have steadily risen to 1990, 12.2 percent, and a lot of people believe that they are probably around 14 percent right now.

If we do not do something about it, by the year 2001, they will be approximately 19 percent of the GNP. That is not a total output; it is a percent of GNP. If we do not do something about it, by the year 2020, we would be paying 32 percent of the gross national product for health care.

So health care costs have been going up, but it needs to be explained. With this green bar chart, these are the outpatient prescription drugs. Back in 1960, they were .53 percent; in 1970, .54 percent; in 1980, .44 percent of the gross national product; in 1985, .51 percent of the gross national product; and in 1990, .58 percent.

While everything else is going up, these prices have remained basically constant. That is very important. So while we are rapping this industry, let us look at the real facts of GNP and the cost of this industry with regard to GNP.

The cost of pharmaceuticals as a percentage of GNP, has varied little. It is a little higher in 1990 than it has been say in the next-to-the-last year, 1970. Nevertheless, it has basically remained constant.

Let me get the second chart up here. I am going to talk in terms of drugs as a percentage of national health care expenditures.

In 1965 they were 8.9 percent. That is what pharmaceuticals cost relative to total health expenditures. In 1970, 7.4 percent; in 1975, 6.1 percent; 1980, 4.8; 1985, 4.8; and 1990, 4.8.

That is as a percent of health care expenditures.

For the Senator from Vermont to say that drugs, such as a relatively minor drug like Tylenol could cost so much in Vermont, a lot more than it cost in Canada, does not take into consideration that this is not necessarily the fault of the pharmaceutical companies.

When people pay an awful lot more money for prescription drugs in a hospital, generally the hospital has added on to the price of those drugs. As you can see, over the past 25 years, the share of health spending devoted to drugs has been cut almost in half. From up here to down here. In other words, you have to look at the real facts here and not just a bunch of phony figures.

Drug expenditures dropped from 10 cents of each health dollar to just under 5 cents of each health dollar over a 25-year period. That is important information.

Let me go to the next chart here. The next chart will be a chart which is entitled "Per Capita Prescription Drug Expenditures, Purchasing Power Parity Dollars." Based on the amount of purchasing power parity dollars, a measure developed by the European Community, you can see that the United States hangs right about in the middle of the pack in per capita prescription drug expenditures. Here is the United Kingdom, and here is Germany right over here, and France, Italy, and Japan are right here. The United States is about in the middle. It is certainly higher than the United Kingdom as a per capita prescription drug expenditure, purchasing power parity dollars. But it is a lot less than Italy, France, and Germany.

Some of our international neighbors spend more, and others spend less per person on prescription drugs. There appears to be nothing out of the ordinary about the United States population's cost per patient on prescription medications.

I would like to now put the next chart up, and that is with regard to drug prices. Let us take a good hard look at drug pricing measured in terms of the Producer Price Index, manufacturer's prices.

We can see that according to the Bureau of Labor Statistics' data, between 1989 and 1990, the relative price of pharmaceuticals dropped 2 percentage points. Those who would argue that the industry has not responded adequately to pressures to keep, to the extent practicable, the lid on prices would do well to examine this downward trend over the last number of years. These are the pharmaceutical companies who have been beaten up here today by, I

think, a lot of false arguments. Their prices have gone down overall. We can all say we do not want to pay anything for these things, but if we want to continue to have cures, to grow economically, and to have success in research, we cannot ignore these facts. We better start being thankful that we have the best industry in the world in this area.

Let me go to the next chart. The next chart will be the "Scorecard in 13 Key Industries." I mentioned this before at the beginning of my remarks. This is the "Scorecard in 13 Key Industries" by Fortune magazine as of March 9, 1992. The grades measure United States competitiveness relative to Japan and Europe. They reflect production data, company performance, and expert opinion.

Clearly at the top of the list is—and "A" means an industry that is the best in the world, that is outperforming and outcompeting any other nation in the world, or any other group of nations in the world—the pharmaceuticals. We have an industry that is really making it, an industry that is making things happen, an industry that is coming up with cures, an industry that is coming up with maintenance drugs that help people alleviate pain and suffering, an industry that is making a difference in all of our lives. Now we are going to put price controls on it?

Forest products are up there, too, but we know that they are going down fast because of what is happening with the spotted owl and a number of other regulatory approaches of the Federal Government.

Aerospace B+, pretty good. If we make up our minds to allow full competition, nobody can compete against the United States of America.

But these are about the only areas where we do not have real competition, because we let these industries perform. We have allowed the free market system to work. Look at chemicals; it is down to a B. Food is down to a B. There is no reason for the United States to be down to a B in food. But the fact is, we are continuously putting regulations and mandates on the food industry, the food processing industry, the food delivering industry, and in the process, the food industry is gradually going down. By the time we get through with food safety laws, I will bet you that food reaches the C category at that particular time, because we are making it so difficult to compete. We add more mandates, rules and regulations.

Scientific and photographic equipment has gone down to a B.

Petroleum refining is down to a B. It is going down further because the clean air bill is going to require more regulation, so refining will go down to a C or less.

Telecommunications equipment. I do not mean to have stock prices go down, but it is a B-. We used to be without peer in the world in this area.

Computers, C+. Why in the world is it C+? Regulation.

Industrial and farm equipment is a C. We know we have lost a tremendous market share to Japan and other nations.

Look at motor vehicles, a C. It may not even be a C at this point. This was March 9, 1992. We are already 2 days beyond that, so we are probably going down here.

Metals is a C-.

Electronics is a D. We are the greatest country in the world and we developed the electronics industry, but we have regulated it to death here in Washington. Hardly any of these have price controls or price restraints like this amendment would add to the pharmaceutical industry.

Why would we kill the finest industry in this land? All because we think we are going to save money for the poor and for the aged? Come on. If you stop and think about it, the poor and aged are not going to have the healing drugs that they could have if we keep this industry on top. I am going to get into that a little more as we go along. What phony arguments those are. I think we ought to nurture our American industry, not kill it, injure it.

Some would see that chart and say, about the drug industry, it is strong, so let us tax them. That is a typical liberal approach to things. Others will argue that we are the world's leader, so let us keep it that way and do even better in the future. I think that is what we ought to do.

I would like to go to the pharmaceutical R&D chart. This is clearly an industry that believes in putting its money where its mouth is. Unlike a lot of other industries, the reason our electronics industry is going down, and the reason we are losing in so many other areas is they are not putting the research and development moneys where they should go.

The drug industry has a strong record in the area of research and development. Since 1988, right here, the drug industry has spent more in R&D than the entire budget of the National Institutes of Health—the entire budget. We are talking about one industry. In fact, since 1980, right here, the pharmaceutical industry research and development budget has increased fivefold, from here to 1992, where it is estimated they will spend almost \$11 billion in research and development in this one single industry in this country.

So, this year, nearly \$11 billion will be risked in the drug industry, or the pharmaceutical industry, which I prefer to call it. You cannot ignore those facts. This is an industry that is putting its money where its mouth is, and do we want to cripple it with an amendment like this? Let me go to the next chart which is the 1992 R&D funding.

Look at it in comparison to other industries in this country when we ana-

lyze why the pharmaceutical sector has been successful. At the top of the list is its commitment to research and development. That is why it is so successful.

This year the American drug industry will invest in the aggregate nearly \$11 billion—nearly \$11 billion—in research and development. Compared with the U.S. Government research funding for agriculture, transportation, energy, space, and health, the private sector pharmaceutical R&D funding is greater. Think of it. The drug companies spend money in the aggregate more than the entire budget of the National Institutes of Health—and I do not think we can afford to stifle this investment. It is important.

Let me go to the next chart which is entitled "Average Development Cost of One New Drug." This is something that a lot of our colleagues who are arguing on the other side just plain ignore. The average development cost of one new drug is high—and we are looking for a variety of new drugs to help cure everything from AIDS to cancer. In 1976, the average development cost of one new drug happened to be around \$54 million. By the year 1987, the average cost to develop one drug was \$125 million—that is taking all factors into consideration. By 1990, just 3 years later—and a lot of this is regulatory activity by the Government—the average cost of a new, important drug or any new drug was \$231 million. And that includes a lot of these biotechnology firms, these little companies that depend on the rest of the pharmaceutical industry to help fund their innovative research and development. Due to the nature of biomedical research, it has always been expensive to develop a safe and effective new drug product.

This chart shows that in the last 15 years, the average cost of bringing a new drug through discovery, clinical testing, development, and FDA approval has grown nearly fivefold—from \$54 to \$231 million.

Major contributors to the cost include the intricate nature of research, the expense of highly sophisticated new laboratory equipment, and the cost of borrowing investment capital, especially on the part of the biotechnology companies and these genetic engineering companies as well.

As the focus of research has shifted toward chronic and degenerative diseases, such as cancer, Alzheimer's, and AIDS, the preclinical and clinical testing required has naturally increased and it has become much more complicated. Currently, it is estimated that it takes on average, \$231 million to bring a new molecular entity to market.

We have to remember that it takes about 4,000 failures for each successful new drug, for each one of these \$231 million drugs, which is the average cost for one of them. There are about

4,000 failures before a successful discovery occurs. There is a lot of risk for everybody in this industry.

Recently, the Labor Committee received a letter from an AIDS activist organization, Direct Action for Treatment Access. This letter, opposing the Metzenbaum orphan drug amendments, noted: "A drug that gets approval has to pull far more than its own weight. Like the oil strike that finally pays off, it has to pay all the dry holes, the general expenses of the company, and future development."

We cannot ignore these loss factors in a free market economy. We act like it goes on and on without the incentives that allow it to succeed.

Let me use the next chart. This happens to be called "Treatment Cost Comparison."

Drugs not only fight sickness and save lives, they also save money. They are often the least expensive form of health care. Based on industry and government estimates, the cost of treating ulcers with direct therapy right here runs about \$500 per year. The cost of ulcer surgery which used to occur more often than not is still \$7,000.

Look at it. Here is the green bar. This is the annual drug therapy, \$500, when we take Tagamet or some of the other drugs. These prices have gone down. The cost of surgery to correct the ulcer is about \$7,200.

Coronary artery bypass—let us go to that. For coronary artery disease, surgery is no more effective than prescription drugs in preventing heart attacks or improving survival in many heart patients, according to a VA study. For a single patient, drugs can cost about \$1,000 per year compared with the \$30,000 surgical fee.

We were limited to these huge fees until we found these main line drugs that brought these costs down and maintained people so they did not have to undergo those kind of operations.

For gallstones, surgery can cost \$4,000, while the annual drug therapy is about \$1,500. Clearly, cost savings accrue to these innovative new drugs.

In the case of schizophrenia, right down here, the annual cost of drug therapy under our current best drug that we have, is about \$9,000. Up until then, and still in many cases, because we still have not fully solved this problem. I just chatted with a major drug company last night, Johnson & Johnson; they said they have got a drug for schizophrenia that should work in a great number of cases. It costs us an average of \$90,000 to treat schizophrenics. People who biologically probably are schizophrenics can be helped by drugs if we can make a breakthrough and get it to them. But it takes 4,000 misses to create one major drug like that. A lot of risks. It takes a lot of money to participate in this business.

Now we want to take away the incentives to find these new cures that bring

costs down? That is exactly what is going to happen.

Let me go to the next chart which is "Increases in R&D Versus Increases in Drug Prices."

Look at this. We have an index value of 100 between 1982 and 1984. The research and development index—that is this green line—that is how much research and development has gone up in the pharmaceutical industry.

But look at the CPI Rx index, in other words, the cost of drugs has gone up, but much slower than the research and development that they are putting in to find the cures. I do not know many industries that can meet these kinds of comparison charts.

What are we going to do? Are we going to add more mandates, are we going to add price regulation, are we going to put more regulations on these people, are we going to take away the incentives at a time when we need their help more than ever before. It does not make sense to me.

A lot of what went wrong in the decade of the eighties was that we lived too much for the present and we forgot about the future. Too often we saw a merger mania in which longstanding corporations were literally sucked dry of their vitality for the sake of short-term profit-taking.

What that chart says, and says very loudly and very clearly is that the drug industry is in it for the long haul. They are in for the long haul not for just some short term cheap profit-taking although they have to make profits to put it into a continual upswing in R&D. We see in the debate the legal hullabaloo over drug pricing. The industry raised R&D investment substantially, greater than the drug price index. This is hardly the action of short-term price gougers. We can see from the year 1985 right back here, that research and development, I believe, has grown to 25 percent higher than the prescription drug price index.

Is this not the type of forwardlooking investment that we need more of in our country today. Today's investment pays off in tomorrow's cures. We will always try to keep this industry competitive in the world marketplace. We will keep it where it is. Would it not be a marvelous shot in the arm to the economy if all businesses increased R&D spending to higher levels, greater than sale price increases?

Mr. President, these charts mean something. With the information I have just presented, as the background, I just want to say that S. 2000 raises in my mind some very troubling concerns. It is a piece of precedent-setting legislation that essentially establishes federally mandated price controls for pharmaceutical products. It embodies the philosophy of price controls as the only solution for our health care system, but the fact is that there are other market-oriented options for us to pursue.

Mr. President, I have observed that the market is not deaf. The industry has heard and is taking seriously the concerns raised in Congress and elsewhere about the cost of medication.

And to that degree, I want to give credit to the distinguished Senator from Arkansas. He may not be going about it in the right way, but he certainly has raised enough noise so that they have had to look at the matter very carefully. They are very seriously and sincerely trying to resolve these problems, and he deserves a great deal of credit for doing that. And I will be the first to give him that credit.

I myself have spoken in public to major drug industry gatherings where I have made it clear that the industry has to try to bring their prices down. And, of course, as one of the two major authors of the Drug Price Competition and Patent Term Restoration bill, which helped to create the generic drug industry, I want to see those prices come down. That was the purpose of that bill. I think the industry has heard this, and is taking seriously some of the criticisms and concerns raised by the distinguished Senator from Arkansas pertaining to the cost of their medications.

The fact is, [that] prescription drug price inflation now has decreased for 2 straight years. The 1989 drug price inflation rate was 9.7 percent. In 1990, this figure dropped to 8.1 percent, and further decreased to 7.2 percent in 1991. Now, I have opposed S. 2000 on several specific grounds, in addition to my generally conservative philosophy that whenever and wherever possible, free markets should be just that, free.

Mr. President, S. 2000 creates a Prescription Drug Review Commission. Just exactly what we do not need is another federally sanctioned body to study the drug industry. There are at least 25 studies of the drug industry currently underway by a bevy of Government agencies, including OTA, the Office of Technology Assessment; GAO, the General Accounting Office; ITC, and HHS. OBRA in 1990 alone, required eight separate studies of this industry. With all these studies to keep track of, it is a wonder that anyone in the industry has time to develop and market new drug products.

This Commission would have a charter that requires it to recommend coverage and reimbursement of the health and financial incentives. In addition, the Commission would study the feasibility of "establishing a pharmaceutical products price review board" as now exists in Canada. Talk about a "slippery slope" to price controls, this is more like a steep cliff.

This Canadian board is the very mechanism that has precluded United States holders of pharmaceutical patents from recouping the Canadian share of the research and development costs. U.S. Trade Representative Carla

Hills has voiced her concern that adoption of this Commission could undermine our international trade negotiating position as we pursue patent reforms.

I should note that the Canadian Government itself last January 14 endorsed the GATT draft agreement, which would nullify that country's compulsory-licensing law. In its press release, the Canadian Government stated:

The Ministers said that Canada's position is consistent with the emerging multilateral consensus, among developed and developing countries, that stronger patent protection greatly improves the investment climate and the atmosphere in which innovation can take place.

One reason Canada's prices are low is they have gone to price controls. And I am going to get into that in just a second, and I am going to get into the disaster that is lurking around the bend.

(Mr. FOWLER assumed the chair.)

Mr. PRYOR. Mr. President, I wonder if the distinguished Senator from Utah will yield for a couple of questions.

Mr. HATCH. Yes.

Mr. PRYOR. Mr. President, I was not going to interrupt the Senator's train of thought on his statement, but I must rise, Mr. President, because actually some of those charts are extremely misleading, and I am going to certainly admit that I do not ever believe the Senator from Utah would mislead his colleagues in the U.S. Senate, nor do I believe that he prepared those charts. I think those charts were probably prepared by the pharmaceutical manufacturers.

Mr. HATCH. I would be happy to discuss them with you, if you would like.

Mr. PRYOR. What I would like to ask is on one of the charts—maybe you can hold that one up—the indication was, or you left the implication, I should say, that we infer that drug prices were going down, that the inflation rate is going down.

What I think ought to be the main point, I would say that the distinguished Senator from Utah, out of those charts—those charts that he has been showing on the floor—what he has neglected to show his colleagues is that all the other PPI indexes for the other goods produced have gone down accordingly since 1989. The final chart shows a 7.1-percent increase and shows that the cost of the pharmaceutical drugs, I say to my distinguished colleague, has gone up seven times—seven times—the rate of inflation for the other products produced in this country.

The other inference that the Senator from Utah would leave with us is if we adopt S. 2000, or this particular amendment that is now pending in the U.S. Senate, that we are not going to have any research, that we are not going to go out and find the cure for cancer and AIDS and all the other diseases that we are talking about.

Mr. President, nothing could be further from the truth. This goes to one

aspect of the research dollar. It goes to that aspect of the research dollar that, since 1921, has evolved and now has become abused to the extent that, as I stated in my opening statement, it is the mother of all tax breaks; it is the sweetheart deal of all deals. And it is the section 936 tax break in Puerto Rico, whereby a pharmaceutical company today hiring one Puerto Rican citizen gets a tax credit of \$71,000.

Mr. HATCH. I do not want to interrupt the Senator.

Mr. PRYOR. It is incomprehensible.

Mr. HATCH. Let me interrupt the distinguished Senator. I think the Senator is aware that it is not just the pharmaceutical industry that benefits from section 936.

Mr. PRYOR. Mr. President, other industries benefit from section 936. A shoe industry might benefit; a John Deere tractor company might benefit. But the 936 tax legislation in 1921 relates not to job creation; it relates to the profits of the company, the profits of the industry. And the profits of the pharmaceutical industry are so high at this point that their tax breaks are probably seven to eight times the tax breaks of any other industry that desires to locate in Puerto Rico. And that is the section 936 program.

My question to the distinguished Senator from Utah is: I do not know if you have any base closings; we have 59 base closings about to happen in our country. I wonder if the distinguished Senator from Utah, who is a new member of the Finance Committee, would join me in establishing a section 936 program for those communities who are in or who are by or in near location to a military base closing.

Now, we say let us not hurt Puerto Rico. Here is Secretary Sullivan. He comes out yesterday with his HHS alert, trying to get people to oppose this amendment. He is the Secretary of Health and Human Services in country. He is the spokesman, allegedly, the advocate for the elderly, the blind, the lame, the disabled. And, Mr. President, he is coming out and saying the administration opposes this amendment. If the bill is presented in current form, the Secretary will recommend that it be vetoed. And the main reason he gives, or one of the main reasons, he says it is going to decrease employment in Puerto Rico.

Well, Mr. President, I say what about those communities around the country that are losing military bases today? What are we going to do about the employment there? What is the Secretary of HHS doing telling us what the policy should be in Puerto Rico with regard to employment there?

Mr. HATCH. Mr. President, let me take back my time. And I would look to answer some of the issues the distinguished Senator has raised.

First of all, I have not raised the issue of how hard this is going to be on

Puerto Rico if you take away section 936 under the provisions of your bill. It would be hard for them. What I am talking about is the ruining of one good industry in this country by price controls.

Let me go back to your question. You said basically that while CPI increased just 3.1 percent in 1991, drug manufacturing inflation was three times that, at 9.4 percent. Let me just give you my feelings on this. The prescription drug component of the consumer price index did increase by more than 9 percent for 1991. And incidentally, for 1989 and 1990, as well.

But the CPI—just for the Senator's information—measures retail sales increases, not drug manufacturing inflation. That is measured by the producer price index. And increases in the prescription drug component of the PPI have declined in the past 3 years, from 9.5 percent in 1989 to 8.1 percent in 1990, to just 7.1 percent in 1991.

It is wholesaler and retailer markups that are keeping consumer price increases so high. And keep in mind, this is an industry that has put \$11 billion into research and development. No other industry I know of—

Mr. PRYOR. Mr. President, will the Senator yield on that point?

Mr. HATCH. I would like not to. I would like to make my points and then I will be happy to.

Let me say this. Other manufacturers have had a 9-percent increase in jobs while this industry has a 25.5-percent increase. This industry is not like other industries. It is high risk. Profits are high when they hit it big, when they get a widely used drug, as it should be, because they are spending the money; they are putting the money where their mouths are, into research and development which is going up and up.

Let me say another thing. Even with 936—and the Senator has admitted, it is not just the pharmaceutical industry that benefits from section 936 in Puerto Rico, other industries do, too—the effective tax rate, by industry, for the years 1980 through 1987—and I think in 1988—was 28 percent for the pharmaceutical industry. The average is 27.8.

What is the deal? Why are we going to kill this industry just because it sounds like a nice, populist thing to do?

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. HATCH. I would like to finish my remarks because I know Senator GRAMM is waiting to speak.

Mr. GRAMM. Yes, I want to speak.

Mr. HATCH. And others. I will try to get finished as quickly as I can, but I want to answer some of the questions, now that he has brought them up, that the distinguished Senator from Arkansas has raised.

I submit this is not the time to be sliding backward, especially when our

good neighbors to the north are starting to catch on and are finally showing some signs of moving forward.

Let me turn now, Mr. President, to the important issue of how this legislation would undermine our economic development mission in Puerto Rico, which the distinguished Senator from Arkansas raised. I did not until now.

Section 936, by allowing Federal tax credits, has for years succeeded in promoting economic development in Puerto Rico and has provided an extra measure of stability throughout the whole Caribbean Basin, something that is very important to this country. It has also stimulated U.S. trade, created jobs here on the mainland, and acted as a significant incentive for U.S. firms to increase R&D expenditures, thus improving international competitiveness.

Great progress has been made in Puerto Rico, but there is much to be done. Puerto Rico's unemployment rate is 17 percent and per capita income is only about half of that in our poorest States. Without the full benefit of section 936, their economy will lag further behind, and since the distinguished Senator from Arkansas brought it up, I might as well say it. That is why Governor Colon steadfastly opposes S. 2000. I do not blame him. Governor Colon is in good company in his opposition to S. 2000.

The administration has carefully examined this legislation and found it deficient. Secretary Sullivan, as the distinguished Senator has said, has taken the position that:

We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of the congressionally mandated intellectual property rights regulations in other countries, and require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend he veto it.

I think he would be unwise, if he did not recommend a veto, Mr. President. I think the Secretary has summed it up concisely, and I join him in opposition to this legislation and urge my colleagues on both sides of the aisle to think carefully about this vote. We should not take actions, however well-intentioned, that would seriously disrupt the long-term capacity of a critical industry to discover and develop safe and effective products for all Americans.

Mr. President, pharmaceutical firms have been responsive to the warnings of Senator PRYOR and have modified pricing policies. Maybe not as much as he would like. I share the Senator's concerns about the inability of some of our citizens to afford the cost of their medication. But we cannot and we should not address this issue outside of the health care reform debate.

This industry, perhaps, holds the key to getting our health care costs under

control through the development of true cost-saving technologies. We have industry which is—as we are debating the merits of the economic growth package designed to help some of those industries that are not faring well—financially healthy and very competitive in the world marketplace.

In my view, this industry should be encouraged, not penalized, for its successes. I think S. 2000 which is the amendment of the distinguished Senator should be defeated.

Because it materially disturbs the system of market incentives that have worked to make the United States the world leader in pharmaceutical and pharmaceutical discoveries to the benefit of millions of patients and their families at home and abroad and to the benefit of thousands of U.S. workers employed in this country, we have to defeat this amendment.

Because it helps establish a mechanism to unduly influence prices in a manner that materially interferes with the marketplace, it ought to be defeated.

Because it authorizes yet another governmental commission to study the drug industry and unwisely grants this commission the ability to disrupt the marketplace, it ought to be defeated.

Because it would be injurious to the fragile economy of Puerto Rico, as the Senator said and I said—there may be other fragile economies and we maybe ought to do something about those—but there is no reason to particularly do harm to that little economy when it means so much to the whole Caribbean basin and to the rest of our own country, as well. So there are a lot of reasons besides those that cause me to rise in opposition to this particular bill.

Mr. President, there have been some arguments made here today that I just cannot allow to go forward. One of them we have heard today, that the average American citizen pays 62 percent more for prescription drugs than the average Canadian citizen and 54 percent more than the average European citizen.

Mr. President, based on most recent data available from the Organization for Economic Cooperation and Development, the OECD, U.S. per capita expenditures on pharmaceuticals are about average for industrialized countries. United States expenditures are approximately 5 percent lower than the OECD average, if all currencies are converted into U.S. dollars using current exchange rates.

Mr. PRYOR. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Will the Senator yield?

Mr. HATCH. I will be glad to.

Mr. PRYOR. Mr. President, if you challenge those figures that I presented about the 62—

Mr. HATCH. I am challenging them.

Mr. PRYOR. They are from the Department of Health and Human Services. You have just taken the Secretary's statement, the Secretary of Health and Human Services, saying he decries this bill, he wants to help defeat this bill. Yet you quote his own statistics.

Mr. HATCH. I am not quoting those statistics at all. I think these statistics are accurate. What I am saying is that the OECD figures show in 1990 the capital pharmaceutical expenditures were \$163 for Canada and \$217 on average for the European Economic Community countries. This compares with \$210 for the United States of America. In other words, the average Canadian pays 22 percent less, and the average European pays 3 percent more than the average American.

It is true that Americans pay more than Canadians for their prescription drugs, but not 62 percent more. And citizens of France, Germany, and Italy pay proportionately more than Americans or Canadians. This is reflected by the fact that, on average, Americans must work 14.2 hours to cover their annual per capita pharmaceutical expenditures while Canadians work 13.7 hours, Germans work 19.8, and the Japanese work 22.7 hours.

Exchange rate fluctuations are a major factor here. A drug introduced in every OECD country in 1980 at the equivalent cost of \$1 would still have cost \$1 in 1990 in the United States, but exchange rate variations alone would have moved the prices to 35 cents in Portugal, 77 cents in the United Kingdom, \$1.12 in Germany, and \$1.57 in Japan.

So what seems to be statistical proof sometimes is not. I think it is one of the false arguments to use those figures.

Another argument that was used is the drug industry's annual average 15.5-percent profit margin is more than triple the 4.6-percent profit margin of the average Fortune 500 company.

Pharmaceutical industry profitability is not out of line with other industries with similar skills and R&D intensity, according to our own Office of Technology Assessment research.

Office of Technology Assessment health program senior associate Judith Wagner, who holds a Ph.D., reported at the Massachusetts Institute of Technology symposium on November 20: "Estimates of pharmaceutical industry profitability by Congress may be three to fourfold too high," according to the results of a study prepared for the Office of Technology Assessment. "The OTA study found that the difference in the implied internal rate of return between pharmaceutical companies and other firms is about 2 to 3 percent," Wagner reported.

So the huge differential between pharmaceutical firms and other firms shown in the Senate Aging Committee

report has been whittled away to a much smaller difference, is what she commented.

Wagner said that the study for OTA employed a relatively new methodology which may be more accurate than the Senate committee's. The OTA study looked at 88 pharmaceutical firms operating between 1975 and 1987, and compared them to 198 nonpharmaceutical companies with similar skills and R&D intensity. That is what Wagner said.

The most recent Business Week 1,000 found that 14 of the 31 pharmaceutical companies surveyed either lost money in 1990 or made profits that were less than an investor could get without risk from a Treasury bond. That is a fact.

Mr. President, I would like to take on a lot of the other comments that have been made because I think they are misleading and I think they are basically what you would call populist arguments that are not taking into consideration the real needs of this country and this industry. Like I said, I do not have any dog in this fight other than the free market system of this country because we do not have much in the way of pharmaceutical companies in Utah.

I have to tell you that there are answers to everything that the distinguished Senator from Arkansas and those who have advocated for this amendment have brought up. The bulk of the research and development by prescription drug manufacturers produces insignificant new compounds, they say, that add little or nothing to drug therapies already marketed. That is just pure bunk.

In the past decade—the past 10 years—the pharmaceutical industry has produced new drugs of vaccines against acquired immune deficiency syndrome, AIDS; numerous infections that strike AIDS patients; anemia and dialysis patients; asthma; chicken pox; depression; diabetes; Gaucher's disease; genital herpes and warts; haemophilus influenza type B responsible for meningitis in infants; hairy cell leukemia; heart attacks; hepatitis B; hepatitis non-A, non-B; high cholesterol; high blood pressure; low white blood cell count in chemotherapy-treated cancer patients; malaria; nausea caused by chemotherapy; neonatal respiratory distress syndrome; organ transplant; peptic ulcers; river blindness in Africa; schizophrenia.

It is just there. Can you imagine what it means? Severe combined immunodeficiency disease, the so-called bubble boy disease. I went and saw the development of this one myself. Severe recalcitrant cystic acne; sleeping sickness in Africa; and that is only a partial list in the last 10 years. I could go on and on, but I know there are Senators who want to talk.

I will bring out some more a little bit later about some of the arguments that

have been made by those on the other side of this particular issue.

There is one more I have to bring out, and that is the argument that prescription drugs represent the highest out-of-pocket medical expenditures for three of four elderly. Because of skyrocketing prescription drug inflation, they argue many health insurance plans for the elderly offer no prescription drug coverage. That is the argument.

What is the reality? Medicare does not cover prescription drugs. Congress added prescription drugs to Medicare in 1988, but many of the elderly objected to it because it included additional premium costs for beneficiaries. Congress listened to these objections and they repealed the prescription drug coverage in 1989. Most private health insurance plans have never offered prescription drug coverage. There is no evidence that any plans have dropped this coverage because of rising prices and unfortunately for the elderly, many medigap insurance plans do not cover prescription drugs, but the National Association of Insurance Commissioners has recently agreed on several models for medigap plans, three of which include coverage of out patient drugs.

Because so many of the elderly pay for their prescription medicines out of their own pockets, naturally they feel the costs more directly. I empathize with them. My mother is 86 and my father is almost 88 and they are paying for it, like others. Like other people they complain bitterly about a \$50 prescription cost while barely noticing a \$10,000 hospital bill that is covered by insurance. But the fact remains that the prescription medicines are the most cost-effective form of health care not only for the elderly but for others as well.

Good prescription drugs can keep the elderly out of nursing homes and hospitals at a fraction of the cost and give them a higher quality of life than they currently have. But if we dry up the R&D and we dry up the incentives and we dry up the opportunities of the pharmaceutical industry in this country, we are not going to have the explosion in the development of drugs that we have had over the last number of years.

According to a recent study, the chief cause for admissions to nursing homes is Alzheimer's disease. There are a number of companies working on that. Some of them think they are coming close to having a breakthrough. Arthritis; we started an arthritis institute. I was the one who moved that along with some others in the Senate. Stroke and hip fractures, they are making headway in some of these areas.

According to a study by the Pharmaceutical Manufacturing Association, there are more than 300 medicines in

development for those diseases alone. Thus drug research is our best hope for cutting down the health care expenditures of the elderly in a meaningful way. I predict that if this amendment is agreed to and it becomes law, all of that research is going to dry up or a vast majority of it will. There will only be left the wealthiest pharmaceutical companies who have the right or the power to do this and in the end we are going to add more cost to the elderly than ever before.

Yes, it is expensive. Yes, we are on the cutting edge of some of the most important drugs in this world's history. Dry up the incentives and you will dry up the drugs. You will dry up the pharmaceuticals that can make a difference in every one of these senior citizens' lives. So I tell all you senior citizens out there, do not buy these populist arguments. They are going to make it impossible to get these drugs in the future, and they will do it by interfering with and destroying the one industry in this country that is an A industry that competes better than any other industry in the world all over the world, and that means a difference in this country in so many ways, including employment and including prescription drugs that may some day help the elderly in our society.

Mr. President, I will have more to say at a little later date, but I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Under the agreement, the Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, we have just heard an excellent response to many of the questions that have been raised by our dear colleague from Arkansas containing a lot of interesting facts. But in my mind, the questions raised were irrelevant, and the information provided was irrelevant. Before I can get to what is relevant, however, since we have been talking about Puerto Rico, prices, and research, none of which is relevant to his argument in my opinion, I want to try to set the parameters of what we are talking about, and have my little say about it.

First of all, tax breaks in Puerto Rico are not at issue here. The distinguished Senator from Arkansas has not proposed to repeal those tax breaks. If he proposed to repeal them, I might very well have been over here supporting it. To tell the truth, I have not given it a lot of thought. I was not here in 1921 when this was adopted, and I do not know if it is a good idea or bad idea. The point is it is not relevant to what we are talking about, but I have to say a little bit about it before I get to what is relevant.

In 1921, we set up a series of provisions to encourage people to invest in Puerto Rico. It had nothing to do specifically with pharmaceuticals. It had

to do with people who invest and, as a result, people invested in Puerto Rico and created jobs there that probably would not have been created. Pharmaceutical manufacturers were among those who invested money in Puerto Rico.

The distinguished Senator from Arkansas is not proposing to repeal that provision. He is proposing, however, to deny the pharmaceutical industry equal protection under the law. What he is proposing is to have one set of laws that apply to non-pharmaceutical manufacturers and another set of laws that apply to pharmaceutical manufacturers, allowing pharmaceutical manufacturers to suffer under the burden of price controls or else lose their equal protection under the law.

Mr. President, that is a foolish idea. It is totally at variance with the Constitution, but that is not my argument. My argument is that this would have been a very interesting debate had it occurred in the Soviet Union 3 years ago. This would have been cutting-edge stuff in Eastern Europe a decade ago. The problem is that it is a totally irrelevant argument on the floor of the United States Senate in 1992. The fact that we are here on the floor of the U.S. Senate talking about having the Government regulate the price of products when the rest of the world has long ago rejected this foolishness is absolutely amazing.

When the world has rejected the idea that Government can allocate resources and make sound investment decisions, why are we discussing this on the floor of the Senate?

Nobody has argued that the pharmaceutical industry is not competitive. Nobody has argued there are not people in the pharmaceutical industry who are making investments, who are competing for profits. I have not heard of any move that we have antitrust action against drug manufacturers because of an absence in investment and technology. What we have here at its roots is a proposal to impose price controls on a product because the idea has political appeal.

What the Senator from Arkansas is opposed to is not the pharmaceutical industry; what he is opposed to is capitalism. What the Senator from Arkansas is opposed to is not pharmaceutical profits; what he is opposed to is private property.

What he is proposing is that we go in and seize people's property because it is popular to do so. He is proposing that we impose price controls on an industry that nobody is arguing we ought to have antitrust action against. Nobody is arguing this industry is colluding. There is no legislative proposal to that effect. What is, in fact, being argued is that we ought to impose price controls because it will be popular.

Now, Mr. President, I would say this is somehow irrelevant to the bill before

us, but in a very real sense it is not, and it is also not new to this body. We were here a couple of months ago voting on setting Government limits on interest rates. We have a bill before us that proposes to tax the rich and give money to the middle class, even though the rich are paying a higher percentage of the tax burden today than they were 10 years ago, in an effort to prove that the political economics of the class struggle may have failed in Eastern Europe and the Soviet Union but it is still working in Havana, Cuba, and obviously our Democratic colleagues believe they can make it work here.

Mr. President, in fact, what we are debating is the same old tired Socialist proposals which hold that if it is popular to take somebody's property, do it. Bismarck once said a Socialist never stands on firmer footing than when he argues for the best principles of health.

Mr. PRYOR. Mr. President, will the Senator from Texas yield?

Mr. GRAMM. I do not yield. I do not yield, Mr. President.

My mother, if she complains about one thing to me, complains about drug prices. I am sensitive to drug prices.

Mr. PRYOR. What is the Senator going to do about them?

Mr. GRAMM. I am encouraging competition, the only system that has ever lowered the price of anything.

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. GRAMM. Mr. President, I do not yield.

The PRESIDING OFFICER. The Senator from Texas declines to yield.

Mr. GRAMM. Mr. President, if socialism worked we would have torn down the Berlin Wall to reach to the other side. It did not work, so they tore it down to get to our side. Why do we want to impose price controls, a 5,000-year-old system that dates to the time of the ancient Greeks and Egyptians, when we have 5,000 years of experience to show that it inevitably produces one result—absolute failure?

Why we want to adopt this system, I do not know.

Do you know what I think? I do not think anybody really believes we will adopt this system. I think this just looks like good politics because more people are buying pharmaceuticals than selling them.

But in any case, what we are doing is basically talking about seizing people's property. And so whether all of these arguments and this blizzard of statistics about profitability and prices is relevant, it seems to me the bottom line is this: What right do we have in a free country, in a highly competitive private industry, to come in and take people's property?

Now, if you think drug prices are too high and they are putting a burden on your mother and my mother, maybe you ought to come forward with a bill which in some way tries to have the

public pay for it. As the distinguished Senator from Utah said, in fact, there was such a bill and the public looked at it and rejected it as a bad idea.

But the bottom line is simply this: This is a bad proposal. I do not doubt the sincerity of its proponents. But it is bad policy, policy that has been rejected all over the world. And I wonder, Mr. President—and it makes me frightened for the future of America—why, of all the deliberative bodies on the face of the Earth, the Congress of the United States is suddenly the lone deliberative body on the planet that appears to have no respect for property rights and no confidence in free enterprise, and that suddenly believes Government can solve every problem, that Government can come in and take people's property because it is popular, and that Government can set prices and manipulate things and suddenly make it work.

Mr. PRYOR addressed the Chair.

Mr. GRAMM. That is an amazing thing to me. I do not understand it. But I urge my colleagues, despite all the statistics and questions, to ask yourself some basic questions. First, do you believe in private property? Do you believe people who go out and invest hundreds of millions of dollars and develop a drug have a right to sell it?

Is there any evidence they are preventing anybody else from investing to develop competitive drugs? If there is not, how do we encourage a solution to this problem? What we want to do to encourage a solution to this problem is for somebody to basically provide a competitive system—cut the capital gains tax rate, encourage people to invest in pharmaceuticals and in each and every other industry to develop these miracle cures and in the process compete with each other, driving prices down so my mother can afford to pay her drug bill. And with all of that miracle system, the most powerful system on Earth that worked, if then the price is still too high, let us come in with a program and let society pay part of it, if that is what we decide.

But we should not be trying to do it by seizing people's property, by violating the equal protection clause of the Constitution. That is my argument. I think it is simple and straightforward.

This proposal, well intended and popular though it be, is not deserving of our support. It in no way reflects the system of free enterprise and competition which made us the richest and most powerful system in the world, and a system that vanquished the very kind of proposals in Eastern Europe and the Soviet Union and soon will in Cuba that we are debating here today. I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I wonder if the Senator would, if I would send him a copy of this amendment—I ask

one of the pages to take him a copy of this amendment. Mr. President, I ask my friend from Texas if he would look carefully at that amendment and if he would, to the Senator from Arkansas and his colleagues in this Chamber, point out to the Senator where in one area of this amendment now being considered by the Senate it seizes anyone's property.

Mr. GRAMM. May I respond?

Mr. PRYOR. Yes, I am asking the Senator to respond. Please do that for me. He made reference to that seven times now.

Mr. GRAMM. Mr. President, if I might respond, as the distinguished Senator has propounded his proposal, the proposal says that pharmaceutical manufacturers who sell their products at prices that increase faster than the Consumer Price Index will be denied equal protection under the law, and will be denied benefits that are given to other manufacturers. Is that not the essence?

Mr. PRYOR. That is absolutely not the essence. The Senator from Texas has not read the amendment, I assume, and if he has, he misinterpreted it. There is no seizure of property in this amendment.

I am glad to yield to the Senator from Tennessee.

Mr. GRAMM addressed the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Texas has the floor.

Mr. GRAMM. Mr. President, the sense of this amendment, when you reduce it down to English, is simply this: Equal protection under the law that is granted under a statute that was passed in 1921 and that applies to every other manufacturer operating in Puerto Rico would be denied pharmaceutical companies whose prices rise faster than an arbitrary set standard.

Now, if that is not seizing people's property and denying them equal protection under the law, then I do not know what it is. You are, in essence, saying we are going to treat certain manufacturers differently than we treat everybody else. We are going to take property because we have set an arbitrary standard which is not being met and, therefore, the tax benefit that you and people making shoes, people making steel, or people making plastic combs have, will be revoked for you by the imposition of price controls on you.

That is clearly a taking. It denies people equal justice under the law. And it is, in fact, the point of the amendment.

So, Mr. President, I know there are others here to speak.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Under the existing agreement, the Senator

from Connecticut [Mr. LIEBERMAN] is to be recognized. Since he is not here, the Senator from Colorado [Mr. BROWN] is now recognized.

Mr. BROWN. Thank you, Mr. President.

Mr. President, I would be happy to yield to the distinguished Senator from Tennessee for a few minutes since I know he has some comments he wants to make.

Mr. SASSER. I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I will be brief. I simply wanted to propound some questions to the Senator from Arkansas, the distinguished sponsor of this amendment, for a point of clarification.

As I understand the Senator's amendment, it simply states that in the event a drug manufacturer consistently sells or marks their products above the rate of inflation, they shall lose the preferred tax treatment that they have been getting heretofore. Is that not correct?

Mr. PRYOR. I would respond, Mr. President, to my friend, the Senator from Tennessee, by saying that the drug companies who continue to raise their prices over the cost of inflation each year, then they would lose by the same amount. They increase their prices by that much commensurate under the 936 tax subsidy where they manufactured their drugs in Puerto Rico.

Mr. SASSER. So, in essence, the distinguished Senator's amendment would simply deny the Government subsidy when, in essence, a Government subsidy to the drug manufacturer increases their prices faster than the rate of inflation.

Mr. PRYOR. The Senator is correct.

Mr. SASSER. Does it not appear a great stretch of the imagination for the Senator from Arkansas to say that the denial of a Government subsidy that is given as quid pro quo for a certain action, is that not a great leap and stretch of the imagination to say that would be a denial of due process under the equal protection clause of the Constitution? Ludicrous, I say to my friend from Arkansas.

Mr. PRYOR. I answered my friend from Tennessee. The junior Senator from Texas a few moments ago invoked I believe the equal protection clause of the U.S. Constitution. In my opinion, that is not only the most irrelevant argument—he was talking about irrelevancies here—that is not only irrelevant, but it is a misrepresentation.

There is no equal protection issue in this matter whatsoever regarding the tax break which, I might add, is the greatest tax break of all tax breaks where the drug manufacturers alone participate in a \$71,000 tax credit per employee. They stand alone among all

other industries, all other parts of the economy, and they have abused the system. It certainly is not their right to continue abusing the system if they do not keep their costs within the prices within the cost of inflation.

Mr. SASSER. I wanted to make that clear. I wanted to get my friend from Arkansas to clarify it so none of our colleagues would think that this amendment was an effort to deprive anyone of their property without due process of law, and that this amendment in any way would abrogate the rights of the pharmaceutical manufacturers under the Constitution.

Mr. PRYOR. Mr. President, if I may respond very briefly in addition to the points raised in the questions by the Senator from Tennessee, and especially the points that I wanted the Senator from Texas to answer, he fled the floor, I think, I do not think the National Small Business United or the Small Business Legislative Council or the National Rural Electric Cooperative Association or the National Council of Senior Citizens or the National Council of Life Underwriters—they are not used to endorsing socialistic legislation that takes people's property away from them.

I was hoping that the Senator from Texas would try to explain their support of a piece of socialistic legislation as he referred to. But he chose not to.

Mr. SASSER. I thank the Senator for responding.

I thank our friend from Colorado for being gracious enough to allow us to clarify the point.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. BROWN. Mr. President, I yield 10 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Colorado yields 10 minutes to the Senator from Illinois [Mr. DIXON].

Mr. DIXON. I thank my friend from Colorado for yielding to me, and my friend from Connecticut as well.

Mr. President, for the past 20 months, our Nation has been under the crushing grip of an unrelenting recession. People from Illinois and all across the Nation are being squeezed. They see themselves falling further and further behind. They see high paid jobs disappearing. And they see health care costs rising to astronomical levels, that is, assuming they are lucky enough to have coverage. The recession has exposed serious, long-term economic problems that must be addressed.

Today, we have the opportunity to address these serious problems. Today, we can begin demonstrating to the American people that the Federal Government can respond positively and decisively to get our economy and the American people moving forward again.

The incentives this tax package provides for economic growth and tax relief for families represent a major step toward restoring fairness and equity to the Revenue Code. Working Americans have seen their income erode. This bill cuts their taxes by 25 percent.

Let me state that again for my colleagues who may not have heard it. A family of four earning the median income would see their Federal income tax liability decrease by 25 percent.

I think that is significant, that it is worth doing, and that it will provide real needed help to hardworking Americans who have seen their families' health care and education costs rising far more rapidly than their incomes.

At the same time, the wealthiest seven-tenths of the top 1 percent of all Americans, those who have seen their incomes rise dramatically while their tax obligations have diminished, would be asked to pay a more reasonable and fair share of the tax burden.

This tax package also provides investment incentives to lay the foundation for a strong industrial policy and to spur economic recovery. The bill contains provisions that will increase both short-term and long-term economic growth and create job opportunities for American workers.

I am particularly pleased that the bill restores IRA's for all Americans. As we all know only too well, America suffers from far too low a savings rate, and that low savings rate has real consequences for our economy. It means reduced economic activity and reduced job opportunity for American workers. It gives foreign businesses a competitive advantage over American businesses.

The bill's IRA provisions attack the savings rate problem. These provisions will help increase savings, and that will help our economy and help create jobs, the kind of good jobs Americans want and need.

I would be remiss if I did not comment on another feature of this bill that will improve our long-term competitiveness: The help it provides for education. The keystone of the bill in this area is the new self-reliance loan program. I congratulate my colleague from New Jersey, Senator BRADLEY, and Senator SIMON, for their leadership in bringing this new program to the Senate. I strongly support this new program and the other education incentives in this bill.

Education costs are rising much faster than inflation. College tuition was up over 13 percent last year alone. That means that educational opportunity is slipping away for Americans just when they need it most. This bill is based on the premise that our country will benefit and our economy will benefit by providing educational opportunity. It recognizes that by helping Americans help themselves, we will improve our international economic competitiveness and help our country.

Finally, the Senate bill before us today—unlike the President's proposal, which increases the deficit by \$27 billion over 5 years—is deficit neutral. This tax package fully complies with the pay-as-you-go requirements of the 1990 budget agreement.

Mr. President, many Members of Congress, including this Senator, have been pushing for these kinds of policy changes for a long, long time now. The American people want the recession ended. They want action on our long-term economic problems, and they want it now. They do not want ideology and political posturing to get in the way of the urgent pragmatic steps that need to be taken.

This bill is not the only step we need to take. We also need action to make use of the peace dividend, to meet essential domestic priorities. And we need additional action to address our long-term problems. But this bill is a sound and essential first step. It is long past time to end this recession and to act on the underlying problems that unnecessarily darken what could otherwise well be a very bright future for all Americans.

I urge my colleagues to support this legislation, and I urge the President not to play politics with the misery of others, and to quickly sign this essential package into law.

Mr. President, I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER: The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I rise for two purposes this afternoon. First of all, I want to commend my friend, the distinguished Senator from Arkansas, for his genuine concern over drug prices, and his compassion to help those less fortunate who find themselves impacted by this. I also commend him for having brought to the attention of this body the workings of the particular tax credit problems with regard to our statutes involving Puerto Rico.

He has made an excellent point, and it is one worth revisiting and one worth discussing.

Mr. President, I believe this measure, far from controlling drug prices, will dramatically increase those prices, and ultimately be a great drag upon the American people and the economy. I want to be specific, because the distinguished Senator from Arkansas has been specific in his efforts to bring this measure forward and talk about its impact.

The first point to consider is basically this: What has our experience been? The idea of having the Federal Government dictate prices in our economy is not new; it is not new to this country, and it is not new abroad. It has been tried many times before, both in the United States and in countries around the world. We should be wise enough and thoughtful enough to look

at that experience before we decide to invoke that policy again.

Some in this body may remember the debate over natural gas prices. As I think everybody in this body may recall, at one point, the United States regulated with great detail the price of natural gas in this country.

You remember that discussion and debate. Sincere people said that if we have the Government control the price of natural gas, we will help the consumer; we will guarantee low prices for natural gas, and help people who are in difficult circumstances.

But what is the experience, Mr. President? The simple fact is that far from helping people, the regulatory controls on natural gas were a disaster, by anybody's measure. From the consumer's point of view, it meant significantly higher prices than what the market would have provided. From the Government's point of view, it was a regulatory disaster and a nightmare. From the industry's point of view, it was not only costly but incredibly complex.

Unbelievably, the regulations on natural gas harmed the consumers. They increased the price and cost of the product, and caused an enormous amount of paperwork.

I remember the debate when the Reagan administration talked about taking controls off natural gas prices. Surely everyone in this Chamber remembers it. The rhetoric was that if you take the regulatory controls on the price of natural gas off, they said it would cause an enormous increase in cost to the consumer. The reality was the opposite. Prices dropped; they did not go up. It was governmental controls that kept the prices high, not the reverse.

Some may recall the oil crisis we had in this country. We thought—I say we; not I, but many in this Chamber—and the Federal Government thought the way to handle the shortage caused by the Middle East crisis was to have the Federal Government get involved and regulate prices, because they had escalated too high. At that point, I was working for a food company. Under those guidelines, we had the top priority. Delivery of food was the No. 1 priority in getting fuel in this country.

I wish so much that all of our colleagues could be here, because one of the frustrating things is to have men and women who make these laws who have never gotten their hands dirty, never understood what it is like to live under these laws, who live in an elitist atmosphere and do not know the impact of the Government regulations.

The impact was that it was an absolute nightmare. Thousands of IRS agents were being called into headquarters to allocate supplies. This was not that long ago. Working in an operation that had the No. 1 priority, I remember this, because I flew to Chicago

and spent days trying to get approval for the request to make sure the refrigeration systems kept going. Once we got the Government permits, we could not get them enforced.

After the debate was over, and after the crisis was over, people discovered that some of the State allocation offices ended up leaving their phones off the hook. That happened in California, where they were supposed to allocate fuel.

Government allocation of resources simply does not work. It is not because the people do not have genuine compassion and do not have a sincere interest for the people involved. It is because it is a bureaucratic, regulatory nightmare. And anybody who doubts it, please talk to somebody who worked for a living when we had price controls in this country.

I know what price controls did to the meat industry. Richard Nixon came out with price controls. Anybody who thinks price controls by the Government is good ought to talk to those who lived through that time when Richard Nixon tried it. Let me tell you what happened to the meat industry. They came out with a top price for the products. They were going to stop the increase in prices. You know what the packing plants did, they said, "Fine. We won't sell above the prices. We will simply contract out our service, and we will custom kill cattle, and the customers will buy the cattle. We will custom kill them for a price." And they completely evaded all the price controls.

Mr. President, not a single person got prosecuted for evading the rules. The only people who got hurt in the packing plant business were the few companies that followed the rules.

Anyone who thinks that you will not have a way around these price controls simply has not lived long enough or has not taken the time to investigate what happened. This is not going to help the consumers. This is going to be a disaster for the consumers.

What is the record? What are the problems here? I think the distinguished Senator has brought forth a sincere proposal. We ought to be specific about the kind of problems it has. First of all, I think it is important to note that this amendment does not limit price increases to consumers. Let me repeat it. This amendment does not limit or restrict the price increases to the consumer. Please note on page 7 of the amendment, this deals with average price paid to the manufacturer by wholesalers, or direct buyers, or purchasers. Mr. President, this amendment has nothing to do with the retail price. This has to do with the wholesale price. What can happen in between? The retailers can increase their margin. So any suggestion that this is meant to help the consumer simply ignores what the proposal does.

Second, there are 100 ways for manufacturers to avoid the impact of this regulation. Anyone who believes that this is going to have the impact desired by the sponsor of the bill, please listen.

First of all, it counts on the base year, the first year you bring the product out, unless it was 1991 when you had a base year, as with any new product, you have a question of where you price it the first year. If you know you are limited in the price increases you can have after the first year, do you price the product low or high in your first year? It does not take any MBA from Harvard or Stanford to tell us here what that amendment will do. It tells manufacturers that they better make their first-year price their highest price. The impact of this will be an immediately dramatic increase in new drug prices, not a reduction, and it will be an increase because the law rewards people who increase prices in the first year.

Those of you who are genuinely concerned about the consumer, please consider the message to drug consumers, the message to the drug companies. The message to the whole industry is to make your base year as high as you possibly can because that way you completely avoid any limitation by the amendment.

Are there other potential manipulations? Absolutely. Product mix. If you find you have a high markup in one drug and a low markup in the other drug, all you do is market more of the high markup price, more of that product, and less of the one you have the least markup on. That is not anything an MBA from Chicago or Columbia has to tell you. That is something anybody around the corner who sells shoestrings or newspapers will tell you.

If you are genuinely bitten by this, if you are genuinely bound by this, if you find yourself in the circumstance where you want to increase the prices and what can you do, you can reduce cost. You cannot give out the samples that are used to promote sales. That will give you a better margin, but it does not help the consumer. You can change the packaging. I think many people know in this industry much of the cost is in the packaging. It varies with the drugs, but for some drugs, an enormous portion is in the packaging. All you do to avoid these price limits is change the packaging.

You can change delivery terms. Many of the folks here have not had the opportunity to sell products in the private sector. Mr. President, let me suggest to you that those who have known and understand how useless this price regulation control will be. All you do is require a bigger dropoff, all you do is require a bigger delivery. You completely change the cost structure in dealing with the product, and without changing the sales price, you change the effective price you receive. You can

change the credit terms. It can be C.O.D. instead of 30 days. It can be cash in advance. You increase the money you receive but not the price that is regulated.

Mr. President, if worse comes to worse, what you do is simply avoid it, rent out your patent or custom manufacture the product and totally avoid anything at all in the way of price controls.

This has more holes in it than anyone at this point can imagine. This amendment is not going to control prices. What it is going to do is make cheats out of everybody who is in this business and add measurably to the cost of doing business.

Mr. President, I think a third concern has to be, as we look at this, how bloody complicated it is. We are talking about maintaining a calculation with regard to every product sold by every drug manufacturing company in the country. There are hundreds of companies. There are thousands of products and compounds. The latest estimate is that we have something like 10,000 drugs and compounds. What does that mean? It means that every company has to maintain its complete sales record on every one of those products that they sell, and they have to maintain a whole variety of records. I am well aware that we now have some reporting requirements for Medicaid sales. But, Mr. President, this does not cover Medicaid sales alone. It covers the whole parameter. It means every single one of them has to be documented and provable. We are talking about rooms and warehouses full of documentation and paper, we are talking about 10,000 products, and we are talking about hundreds of companies.

Mr. President, it does not stop there. Does anybody remember oil price regulations cases brought in court a decade after regulations were no longer effective? Companies with the brightest attorneys that money could find who were unable to decide what the rules were, bureaucrats making up the rules years after they were issued. That is what this amendment will bring with it. It will bring on millions and millions of dollars of lawsuits and paperwork and attorney fees, and anybody who thinks that is going to reduce the price of drugs is using too much of the product.

It will stimulate product changes. It will stimulate ownership changes. Anyone who has doubts about that, please read this amendment. Please read the amendment to see how you determine who owns what and when you have to file a consolidated report and when you change from 50 percent ownership to 80 percent ownership. If there is any Member of the Senate who understands that that is clear, please come forward and say so. This is complicated. It is a nightmare. It is a bureaucratic redtape imposition of unbelievable cost on the

American people. The fact is you are in favor of people who have to pay those high prices for drugs. The fact is that you care about them. That does not mean that you have to be blind to the kind of nightmare this amendment will foist off on the American people.

Mr. President, it hardly needs mentioning, but the cost index that is used here compared to the price increase of the drug is the wrong price increase, in this Senator's view. We are talking about comparing the increase in the price of drugs, if you can calculate it at all, with the general CPI. That is absurd. With all due deferences to the fine people who drafted this, that is the wrong measurement.

Let me suggest what may happen here. Let us suppose the ingredients for the drug go up dramatically in price and yet other products measured by CPI drop dramatically. The CPI drops even though the cost of producing drugs goes up. What you do is dramatically discourage producing the products. That is not what this measure ought to be about. Clearly, with common sense, if you are trying to match these things, you ought to compare the cost that the companies incur with the price that they are charging. But that is not what this amendment does. This amendment does not compare the cost to the company with the price that they charge. It compares a different price to cost. To say it is unfair is an understatement. It is a simple mistake in drafting the amendment. The CPI, as I am sure every Member knows, come in a variety of forms. It is broken down by industry. It is broken down by product lines. It is possible to develop a CPI that might be relevant here, but that is not in the amendment. We are comparing apples with oranges to decide whether the price increase was too much.

Mr. President, it simply does not make sense. I want to suggest to the Members that before we adopt this step of a regulated economy, that we take a moment and look at what has happened to the countries that have gone that way. Let me emphasize, Mr. President, I am not suggesting for a moment that the distinguished Senator from Arkansas would favor a socialized economy. He is not only a person of great good humor, and great kindness, but I believe he has a basic common sense that would say that does not make sense. But, Mr. President, the countries that have tried a regulated economy, where the Government decides what the prices are, had a disaster. Take a look at what happened around the world. When Fidel Castro came to power in Cuba, Cuba was No. 2 in Central and South America in terms of capital markets. It is a fair comparison. You have the same country, the same people, language, and background. After they got through with a government-regulated economy, they

dropped from 2d to 23d. That is where Cuba is today. Government regulation of an economy has not increased the per capita income and helped the citizens of Cuba. It destroyed them.

Anybody who thinks that unusual, take a look at the No. 1 country during that period, in terms of per capita income, in Central and South America. It was Argentina. When they tried socialism, it fell apart as well.

Thankfully they are good citizens, they have had the sense to begin to change courses. But the story is the same around the world regardless of what color, or racial, or ethnic background, religious background, what climate. The same story is true around this world.

The South Koreans have three times the per-capita income of the North Koreans. Mr. President, the difference is freedom. The difference is not language, culture background, climate—the same people on the same peninsula, the same climate. The difference is economic freedom. Anybody who does not think economic freedom works, take a look at it.

East and West Germany, the West Germans have double the worker productivity that the East Germans have. Austria and Hungary sit side by side. In 1949, when Austria was reunited, they had a lower per-capita income than Hungary. Today Austria's per-capita income is three times that of Hungary. Hungary has thrown off the shackles of a Government-dominated economy, because they have looked across the border and they have seen what freedom can mean for them.

It is true everywhere you look. The Chinese on Taiwan produce 12 times as much per capita than the Chinese on mainland China, Mr. President. The same people with the same background and same culture. The main difference is China has more natural resources than Taiwan.

Freedom works. We are not just talking about a theory. We are talking about countries that have tried a Government-regulated economy and found disaster. We as Americans are concerned about the loss of personal and political freedom and religious freedoms. But the economic freedoms that are lost are just as disastrous. They tell a sad story. Anyone who believes that Government regulation of prices is going to be helpful to the consumer simply has not looked at what has happened around the world.

Incidentally, the Chinese in Hong Kong produce dramatically more than the Chinese in Taiwan, and the Chinese in Singapore produce even more, 40 times as much as Hong Kong. If anybody had told you one group of people can produce 40 times as much per capita as another group of people, you would have said that is not possible.

Mr. President, if you look at the U.N. statistics, if you look at U.S. Govern-

ment statistics, they bear it out. Freedom does work. Price controls, Government domination of economy does not work. You can talk about how you are concerned for the consumers of America all you want, if what you deliver is higher prices and higher costs, you have harmed them, you have not helped them.

Mr. President, here are the points that I think are appropriate and that I hope this body will consider when it votes. This measure will mandate dramatically higher costs, hundreds of millions of dollars in red tape and paperwork and lawyers fees and accounting audits. That is without dispute. That is very clear. The estimates are that this could cost this Government somewhere in the neighborhood of over \$330 million in 1995, simply by changing the tax credit system and the resulting increase from Unemployment benefits, food stamps, and welfare benefits we will pay in Puerto Rico.

There is no question this amendment will have a big price tag—a price tag for the people trying to comply with it, a price tag for the people trying to enforce it and a price tag with regard to the people impacted in Puerto Rico. But even with that huge price tag, it will not mean lower prices for people to buy drugs, it will mean significantly higher prices. And, Mr. President, all you need to do is look where Government has tried it both in this country and abroad.

Last, Mr. President, something I believe will concern every Member of this body, it means dramatically increased frustration of the American people. It will encourage disrespect for the law, it will encourage people to find ways around the law, it will encourage people to find ways to ignore the law.

What is the answer? How do we help those? Mr. President, I think there are a number of things we can do. As a member of the Colorado State Senate, I was a prime sponsor of Colorado's generic drug bill. What this generic drug bill did was give consumers the real information and some options in increasing competition. I believe, and many of the consumer advocates at the time believed, that the lowered prices for the consumers, that that was a help for consumers.

We can provide more consumer information so people have the ability to compare products. We can change Federal Government policies that make the cost of marketing these products and delivering these products so high. There are things we can do. But the bottom line is it comes down to encouraging a competitive economy, discouraging monopolies, and encouraging efficient production.

Mr. President, the vote on this amendment is going to be very straightforward and very easy. If you believe that a Government-dominated economy, where prices are regulated

and the Government controls that economy, is good, you are going to like this amendment. If you believe economic freedom works best, if you believe competition is the way to help the consumers of this country, you are going to vote no.

I yield back my time, Mr. President. Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). Under the previous order, the Chair now recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I rise today to join with a number of my colleagues in expressing some very strong reservations relative to the amendment that is before us. I think we are sending a completely opposite signal than what is intended by the author of the bill, and I am afraid that enactment of this legislation would produce results exactly the opposite of the effect that the author of the bill intends.

I want to make it clear, Mr. President, that, while there is a basis for evaluating the impact of section 936 on a number of areas of our tax policy and on our manufacturing base and research base and so forth, this is a discussion that I think ought to take place within committee, that hearings ought to be held, that serious examination of this policy ought to ensue rather than simply having a bill brought to the floor of the Senate during a time of debate on tax policy.

Having said that, though, I do appreciate the fact that it is receiving a significant hearing here today and that we are able to flesh out some of the details of this particular amendment and what it would do.

Mr. President, rather than directly addressing the 936 question, I would like to speak to the broader issue of the importance of the drug industry in this country and the importance of preserving a healthy drug industry for treatment of disease and illness and for the contribution that it makes to the advances of medicine.

It is important to understand that in preserving this industry we are affecting our economy in a number of ways, but more importantly we are bringing some very real advances in the diagnosis and treatment—particularly in the treatment—of disease and illness to the American people and in fact to the people of the world. It is important to know the background behind all of this in terms of what produces this remarkable record that the American pharmaceutical firms have been able to achieve.

According to current estimates by researchers at Tufts University, it takes, on the average, 12 years and \$231 million to discover and successfully bring a new drug to market approval. Other tests are considerably higher in terms of the amount necessary to bring a new drug to approval. According to the Food and Drug Administration, only 1

out of every 4,000 pharmaceutical products tested makes it from the test tube to the patient's bedside. And this is typically a 12-year investment. That is how long it usually takes to gain FDA approval after research begins.

In the area of prescription drugs, this means that only 3 of every 10 prescription drugs marketed ever recover their costs of development. On average, only 5 years of a 17-year patent is left to recover costs and provide profits.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a letter from the National Black Nurses Association that sums up some of my feelings on this particular piece of legislation. They state:

This legislation would have unintended side effects that would hurt the very people it is supposed to help. By imposing price controls and cutting tax incentives, this bill would discourage drug research. The end result would be fewer breakthrough medicines—and more illness and death.

I also would like to submit for the RECORD a letter from Dr. Sullivan, the Secretary of Health and Human Services. Secretary Sullivan states:

To escape the tax penalty imposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the Consumer Price Index. We believe these incentives are perverse, unintended, and undesirable.

Mr. President, I ask unanimous consent to have the letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL BLACK NURSES  
ASSOCIATION, INC.,  
Washington, DC, March 5, 1992.

Hon. DAN COATS,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR COATS: A few weeks ago, I wrote to ask you to oppose S. 2000, the Prescription Drug Cost Containment Act of 1991, introduced by Senator David Pryor. I am writing today to urge you oppose the same measure when Senator Pryor offers it as a floor amendment to the tax package that has been reported out of the Finance Committee.

Although the avowed purpose of this legislation is to reduce the cost of medicines, it would have unintended side effects that would hurt the very people it is supposed to help. By imposing price controls and cutting tax incentives, this bill would discourage drug research. The end result would be fewer breakthrough medicines—and more illness and death.

As nurses, we have witnessed the "miracles" that occur when new medicines save lives. We have also shared the anguish of people dying of diseases for which there is no cure—AIDS, cancer, and Sickle Cell Anemia, to name just a few. With our patients, we cherish hopes that effective medicines will be developed for these and other deadly diseases. Senator Pryor's measure could dash these hopes.

For the sake of our patients, we ask you to vote "no" on this proposed amendment to the tax package.

Thank you for your consideration.

Sincerely,

LINDA BURNES BOLTON,  
President,  
National Black Nurses' Association, Inc.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,  
Washington, DC, March 6, 1992.

Hon. LLOYD BENTSEN,

Chairman, Committee on Finance, U.S. Senate,  
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2000, a bill "To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes."

We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it.

S. 2000 would reduce the tax credit available to drug manufacturers operating in Puerto Rico, to the extent that increases in prescription drug prices exceed the consumer price index.

By October 1, 1992, the Secretary of Health and Human Services would have to establish at least 15 demonstration projects that would last 5 fiscal years to assess the impact on cost, quality of care, and access to prescription drugs of developing a Medicare outpatient prescription drug benefit and the impact on cost and quality of care of extending coverage of outpatient prescription drugs to Medicare beneficiaries served by community health centers. The demonstrations would provide coverage to all drugs and biologicals approved by the Food and Drug Administration and all medically accepted indications listed in the three national drug compendia. There would be a Drug Use Review Board that would recommend the design and development of the drug benefit, establish prospective and retrospective drug use review, and develop educational interventions.

The bill would establish a Medicare Outpatient Prescription Drug Trust Fund for the demonstrations. Up to \$200 million would be available for the demonstrations for fiscal years 1993 through 1997 (adjusted annually for cost-of-living increases). The funding would come from the reduction in the Puerto Rico tax credit.

S. 2000 would also establish a Prescription Drug Policy Review Commission, appointed by the Director of the Congressional Office of Technology Assessment, to make annual reports on national and international drug issues, and to make a special report on the implementation of a price review mechanism and possible changes to U.S. patent law.

Lastly, the bill would require the Secretary to report on Federal subsidies and incentives provided to the pharmaceutical industry and would require pharmaceutical manufacturers under the Medicaid Program

to report average price of products sold in Canada, Australia and the European Economic Community.

Our concerns are multiple. First, with regard to the bill's effects on Puerto Rico, we believe that tampering with the current tax credit will result in higher pharmaceutical prices should the reduced attractiveness of production in Puerto Rico cause pharmaceutical manufacturers to move their facilities elsewhere. Not only would consumer prices be increased, but the movement of manufacturers from Puerto Rico to foreign countries or the mainland would result in decreased employment and revenues in Puerto Rico. We cannot estimate the magnitude of this adverse impact on Puerto Rico but believe it would be substantial. It would also jeopardize the benefits of Puerto Ricans not directly affected if increased welfare, Medicaid, and other costs resulted. The Committee should obtain estimates of the magnitude of this potential loss to Puerto Rico before considering such a potentially disruptive and serious action.

Second, the mechanism for identifying firms which would be at risk of reduced tax for production in Puerto Rico strikes fundamentally at the exercise of the free market and pricing. The bill penalizes manufacturers for any drug product whose sale price increases faster than the consumer price index. This makes no allowance for changes in supply and demand for raw or finished products. Moreover, to escape the tax penalty proposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the consumer price index. We believe these incentives are perverse, unintended, and undesirable.

Third, with regard to demonstrations of a Medicare drug benefit, we note that much of the information to be provided through the proposed demonstrations is already available and that the demonstrations themselves appear to be a back door effort to establish a Medicare drug benefit. Such a benefit was a key component in the Medicare Catastrophic Coverage Act of 1988, which Congress, under substantial pressure from putative beneficiaries, repealed. In addition, the demonstration would be burdensome to administer and at best, marginally useful. There are other sources from which we can obtain desired information. For example, millions of beneficiaries receive drug benefits through various Medicaid plans. In addition, drug utilization review programs currently exist in Medicaid and in various private plans. It would be possible to study the impact of coverage through these vehicles.

Fourth, the amount of funds available for the demonstrations is dependent on the extent to which increases in prescription drug prices exceed the consumer price index. Depending on how drug manufacturers respond to the tax disincentives, funding for the demonstrations could fluctuate greatly from year to year or may not be available at all. This uncertainty could disrupt Medicare benefits and jeopardize the research objectives of the demonstrations.

Fifth, the bill directs us to perform a study of Federal subsidies and incentives to the pharmaceutical industry. This study would cover a wide range of economic efforts of tax, patent, and other policies, both domestically and abroad. This Department has no particular expertise either in the marketing and pricing of pharmaceutical products or in the economic analysis of private industry. Such a study, to the extent possible at all,

would be far more appropriately lodged in the Federal Trade Commission or other agencies with the requisite skills and expertise in industrial economic analysis.

Finally, the bill authorizes the Review Commission to study and suggest how the United States might implement a pharmaceutical price review mechanism and provide incentives for U.S. companies to price their patented products "fairly" through possible grants of compulsory licenses on patents or limiting the period of market exclusivity. The suggestions would significantly weaken the U.S. patent system; be contrary to Congressionally mandated bilateral and multilateral negotiating objectives in the area of intellectual property protection; and negate previous congressional action that provided patent term restoration for some pharmaceutical products and increased market exclusivity to encourage research and development of orphan drugs. Provisions permitting grant of compulsory licenses would be copied by our trading partners and could be implemented in a manner that harms U.S. trade interests.

S. 2000 affects revenues; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary scoring estimates of this bill are under development.

In conclusion, if this bill were sent to the President for his approval, I would have to recommend that he veto it.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.

Mr. COATS. Mr. President, I want to take a few moments speaking to the broader issue. First of all, the global competitiveness of the pharmaceutical industry and the contributions it makes to our balance of trade. The U.S. International Trade Commission's report to the Committee on Finance in the U.S. Senate of September 1991 titled "Global Competitiveness of U.S. Advanced Technology Manufacturing Industries Pharmaceuticals" states:

One reason for the U.S. industry's strong position in the world market is its level of innovation which in turn is based on a number of factors, including the domestic industry's continuing commitment to high research and development expenditures. And, perhaps most important, the relatively unencumbered U.S. economy, in that it has not to date implemented price controls on pharmaceuticals.

The enactment of cost containment programs, price controls, or both, on a national level often results in decreased levels of research and development spending in that these programs reduce revenues that can be reinvested in such research and development. Several countries that have implemented such programs have seen their pharmaceutical industries weaken or shift outside of their borders.

That is an important conclusion, Mr. President. It is a conclusion derived after serious study by the International Trade Commission in its report to the Finance Committee of the U.S. Senate. I think every Senator ought to be aware of their conclusion.

The pharmaceutical trade balance, just in the years 1987 to 1991 have

shown dramatic increase. From a positive contribution of nearly \$500 million in 1987 we have seen nearly a tripling to the contribution of surplus trade balance by pharmaceutical sales overseas to \$1.23 billion estimated by the Commerce Department for 1991.

The United States leads in the discovery of world class drugs. Nearly half of all new medicines that achieved worldwide acceptance over a 12-year period of time originated in the United States. We are a world leader in the export of pharmaceuticals and it is making a dramatic difference in our balance of trade. At a time when we have deep concerns about the ability of U.S. industries to compete on a worldwide basis, our pharmaceutical industry is not only competing but successfully competing and creating a surplus of trade.

The market position, and the ability of these firms in the pharmaceutical industry to compete successfully on a worldwide basis is directly linked to the ability to introduce a stream of new products at regular intervals. Those companies that have been able to introduce those products as the result of a substantial commitment to research and development expenditures, and those that are able to accumulate the resources to be able to make those investments over, as I said, a significant period of time—often more than a decade necessary to bring a product to market—are leading the effort in providing us with a competitive industry by making substantial contributions to our economy.

The U.S. pharmaceutical market is not dominated by two or three giants. In fact, the leading pharmaceutical company in the United States has a 7.2-percent share of the U.S. market. Ten other companies, 10 other largest companies, make up less than 50 percent of total market share. And on a worldwide basis, U.S. pharmaceutical companies constitute approximately 30 percent of the total \$110 billion market for pharmaceuticals. All other companies constitute nearly 70 percent. Yet, with that we are competitive.

So there is a significant amount of competition in the industry and the industry is not dominated by just a few giant manufacturers.

Let me turn to health expenditures and particularly those expenditures on pharmaceuticals as a percent of our gross national product. While we are all concerned by the relatively dramatic increase in total national health care expenditures—rising from 1960, roughly 5-plus percent of total GNP to, in 1990, nearly 12 percent of GNP—the story for prescription drugs is just the opposite. As a percentage of gross national product, the expenditure for pharmaceutical products has actually declined as a percent of total health care expenditures. It has remained relatively flat since 1960. It has not con-

tributed as a percent of gross national product.

Total health care versus prescription drugs as a percent of GNP is lower in the United States than most of our international competitors, friends and allies. In Canada while total expenditures for health care are roughly 8 percent of GNP, their drug expenditures exceed 1 percent of GNP. In France the figure is roughly the same for total expenditures, but drug expenditures are nearly 1.5 percent; in Germany 1.5 percent; in Italy 1.5 percent, in Japan 1.3 percent, but in the United States about 0.8 percent.

So, while our expenditures for total health care are running nearly 12 percent of GNP, our expenditures for prescription drugs have not increased. And relative to other nations, they are significantly less.

Drugs as a percent of national health care expenditures have actually declined from a total of roughly 10 percent in 1960 to 4.8 percent in 1990.

Those of us—and I think that is everyone in this body—who are concerned about rising health care costs, and the treatment of those costs, and how we might hold down those costs, need to understand the important role that prescription drugs play in this whole effort. Let me just detail four different types of procedures and the relative difference in costs between surgical treatment of those procedures and prescription drug treatment of those procedures. Let us take ulcers.

The average cost for treatment of an ulcer is \$24,000 if a patient submits to surgery. If a patient submits to annual drug therapy the annual cost is roughly \$500. This is simply measuring on the basis of expenditures of dollars and does not begin to tell the story relative to the risk to the patient and the ease of providing a painless, effective treatment for a serious medical problem.

I suppose I speak in terms of treatment of ulcers directly to many Members of this body who find themselves eating on the run and consuming a lot of airplane food and eating untold numbers of exotic offerings at various stops along the campaign trail. Many probably have taken advantage—if they have not they ought to take advantage—of the remarkable developments that have taken place in just the last few years in treatment of stomach disorders. Rather than submitting to major surgery, it is like taking a vitamin in the morning to control stomach problems and ulcer problems.

Treatment of gallstones under a surgical procedure is roughly \$11,000 but a drug annual therapy runs \$1,500.

Treatment of coronary artery disease, submit to surgery you are looking at a \$40,000 bill. Submit to annual drug therapy you are looking at \$1,000 on an annual basis.

Treatment of mental illness, particularly schizophrenia, requires hos-

pitalization which results in a cost of roughly \$73,400. Annual drug therapy runs \$4,500.

Contributions of pharmaceuticals have made an extremely important contribution to treatment of these diseases and these are just four examples.

Future predictions relative to use of drugs for treatment and reductions in morbidity and mortality attributable to future pharmaceutical advances are dramatic. It is estimated that 40 percent of the reduction in morbidity and mortality in cardiovascular disease will be through the treatment of new drugs.

Ninety-five percent of the reduction in leukemia deaths through prescription drugs, 50 percent of colorectal cancer deaths, 50 percent of the reduction in lung cancer deaths between 2010 and 2015 are attributable to drug treatment; 80 to 100 percent reduction of severity of osteoarthritis and rheumatoid arthritis cases, 90 percent reduction of severe cases of Alzheimer's disease and 75 percent of the reduction of HIV disease morbidity and mortality over a 10-year period of time will be attributed to future introductions of effective drug therapy treatment.

Mr. President, it is not cheap. It is not inexpensive to bring these new drugs to market. While in 1960 the average cost to bring a new drug product to the market was roughly \$111 million, that increased in 1970 to roughly \$259 million. In 1990, that average is running \$350 million. No small amount of change to bring these remarkable new drugs to market.

Research and development expenditures as a percent of U.S. pharmaceutical sales have soared: In 1980, roughly 11.5 percent of total sales; today nearly 16.5 percent of sales.

When measured against other types of industries, in terms of the amount of money invested in the research and development, pharmaceutical companies far exceed other basic industries in America. All U.S. industries in total spend roughly 3.4 percent of total sales in research and development. We are discussing today ways in which we can encourage competitiveness by U.S. industries in our ability to compete on an international basis.

One of the ways we will be talking about and should be focusing on is our commitment to research and development over the long term to bring to market competitive products at competitive prices. The United States currently averages all industries expend 3.4 percent; General Motors 4.1 percent, General Electric, 7.3 percent; IBM, 11 percent; average expenditures as a percentage of sales in 1990 for pharmaceutical companies, 16.5 percent. That is why we are competitive internationally. That is why pharmaceutical exports provide a surplus balance of trade. That is why U.S. pharmaceutical manufacturers are competing and com-

peting successfully on a worldwide basis.

I am afraid that this legislation, although I know well intended by my friend from Arkansas, would result in a significant decrease in that kind of a research and development commitment and put us at a serious disadvantage relative to the future.

Some would say the answer to that is that most new drugs will either be patented by individuals or by universities, NIH or Government. That simply is not true. Ninety-two percent of all new patented drugs will be patented by the private industry, only 4 percent by individuals and 4 percent by the Government.

Mr. President, I will close by simply saying that as most of us know, bringing a drug to approval requires an enormous amount of time, roughly 12 years; an enormous amount of paperwork and investment and commitment; an enormous amount of research dollars. The roughly 12-year approval process to bring a drug from infancy to market leaving roughly only 5 years left under its patent requires that that investment be regained so that additional research can continue in the future.

I think it is important for us to focus on this as we examine this legislation before us today and that Members understand what the significant contributions to the drug industry are to not only the economic success of our industries and contributions to balance of trade but also to the health and welfare of millions of Americans and billions of citizens on a worldwide basis.

Mr. President, I thank you for the opportunity to share this information with my colleagues and yield back my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, we have a slight change in our speaking order. I ask unanimous consent to yield my position at this time to the distinguished Senator from Nevada.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Nevada [Mr. BRYAN] is recognized.

Mr. BRYAN. I thank the President and thank my good friend, the able Senator from Arkansas. I am delighted to be here today to support his prescription drug amendment, including the provisions of the Prescription Drug Cost Containment Act of 1991 which I am proud to cosponsor. This amendment is a step toward protecting all Americans from spiralling prescription drug prices, a step supported by 40 national organizations including the Children's Defense Fund, the National Council of Senior Citizens, the Consumers Union, and the National Small Business United.

For millions of working American families struggling to make ends meet,

to pay their rent, to feed and clothe their children, the cost of prescription drugs hurts. Many of these families lack the most basic health care insurance and they most assuredly do not have insurance coverage for their prescription drugs.

For our seniors, Medicare does not cover prescription drugs. And relatively few can afford to pay the premiums to purchase private health care insurance to cover those drugs, and for 5 million seniors, the impact is even greater. They have a Hobson's choice: Do I eat or do I take my prescription drugs? Do I gamble with my health by not eating adequately, or by not taking my medically necessary prescribed drugs? Either way, I lose. That is a choice no American should be forced to make.

In my own State of Nevada, seniors frequently write to share their personal experiences with the increase in prescription drugs.

A constituent from Sparks, NV, recently wrote that she takes Capoten, a hypertension drug treatment. When she began taking Capoten, she paid \$75.95 for 100 pills; then in September 1991, the price increased to \$89.95; and in January 1992, the price increased again to \$97.95. Another constituent from Las Vegas shared with me his experience about price increases in his blood pressure medicine. He paid \$44.40 in May 1988, for a beta blocker drug. In May 1990, the cost had risen to \$58.50. By February 1991, the price was a hefty \$64.70.

Mr. President, there can be no question that drug companies have enjoyed extraordinary profit margins in recent years. As out-of-pocket costs soared for all of us as consumers, so did the profit margins of major drug companies.

Stockholders in pharmaceutical companies may be smiling, but for most of us, these statistics are alarming. And for older citizens, especially those on fixed incomes, these statistics are frightening. The simple fact is that drug costs are out of control.

None of us who support this legislation claim that the spiralling health care costs of our country will be solved solely by containing the costs of prescription drugs. But it is a step that will provide important relief from out of control prescription costs. Put in context, prescription drug prices from 1982 to 1991 rose by a staggering 142 percent.

During that same time frame, the rate of general inflation increased by 46 percent. And unlike some aspects of health care delivery, the costs of prescription drugs are heavily borne by the consumer out of his or her own pocket. This legislation will provide a strong tax incentive for drug companies to keep increases at or below the general inflation rate.

Mr. President, this legislation will provide a strong tax incentive for drug

companies to keep price increases at or below the general inflation rate.

In December of this past year, I received a letter from the president of the National Allergy and Asthma Network, Mothers of Asthmatics. The letter said our bill would "cripple scientific research in this country." Let me make it clear to the president and members of this organization that none of us who support this amendment oppose efforts of Mothers of Asthmatics or other groups that are dependent on vitally needed drug research to improve their quality of life. I suspect, Mr. President, this was a contention that was not advanced spontaneously by this organization but was a line of attack suggested by the industry to fight the cost containment efforts contained in the Pryor amendment.

Let me repeat that there are no provisions in this legislation to reduce research tax credits. Any suggestion that there is, clearly is a red herring.

The curb on tax credits proposed by the Pryor amendment addresses only nonresearch credits. Under this legislation, for each percentage point drug prices increase over the general rate of inflation as reflected in the Consumer Price Index, drug companies will face a 20-percent reduction of their non-research and development tax credits.

The American taxpayer provides \$2 billion in nonresearch tax credits to the pharmaceutical industry. The taxpayer is actually subsidizing these companies. If the policy is to give a tax credit to the industry, then it seems to me that Americans are entitled to and ought to be ensured that the tax credit is being used for the purpose intended and not abused.

Further provisions of this legislation specifically address this issue and make sure that the claimed tax credits are used for legitimate research, non-duplicative research. Legitimate and necessary research will not be affected by the provisions of this amendment. The public has an interest in seeing that these tax credit provisions are used to advance the kind of research that develops valuable lifesaving medications. It should not, however, become a license to plunder by the large drug companies in this country from the most vulnerable among us, those who depend upon these lifesaving medications.

The drug companies are contending that they already provide health care cost containment because the use of prescription drugs keeps people out of hospitals or shortens the stay for those in hospitals. I do not believe that any one questions that the advent of new medicines has lengthened lives, has helped keep some people out of hospitals, and has improved the quality of life for Americans. That is a given and that is not at issue in this debate.

But what is not a given is that drug companies can charge whatever they

choose for these drugs, and at the same time enjoy billions of dollars of tax subsidies. The drug companies cannot ignore the affordability of those drugs, and that seniors must continue to decide between purchasing food or these medications, or that all Americans will continue to underwrite high drug prices and nonresearch tax subsidies.

Prescription drugs play a major role in the quality of health care that Americans receive and in the quality of life that Americans enjoy. That role, however, is not a license to gouge the people who are dependent upon those drugs in order to maintain their good health.

The vast majority of people have to pay for their prescription drugs out of their own pockets or go without, because insurance does not provide enough coverage. There are some 37 million uninsured people in this country. How do they pay for prescription drugs? For those with health care insurance, how many can afford prescription drug coverage? This legislation will only affect those drug companies that expect Americans to pay prices above the general rate of inflation. Drug companies can still charge what they want. They simply face a reduction in their allowable nonresearch credits if they choose to inflate their prices above the general rate of inflation.

Mr. President, it is their choice. It is an easier choice than some consumers must make when faced with spending money to eat or spending money to purchase lifesaving prescription drugs.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, we started on this amendment at 10 o'clock this morning with the idea it might take an hour or 2. It has taken almost 6 hours, and we have no determinate time we are going to end it. And if we are going to meet the President's schedule and have this legislation on his desk at the time he requested, then it is imperative we move ahead.

This has been cleared, I would say, by the minority leader and the majority leader. I ask unanimous consent there be 2 hours remaining on the pending Pryor amendment prior to a motion to table, with the time equally divided and controlled between Senators PRYOR and HATCH; that at the conclusion or yielding back of time on the amendment, the manager of the bill on the majority side, Senator BENTSEN, be recognized for 5 minutes, followed by Senator BENTSEN making a motion to table the Pryor amendment; that no amendments to the amendment be in order prior to the motion to table; and that if the amendment is not tabled, there be no restriction on debate or second-degree amendments.

I further ask unanimous consent that following the disposition of the Pryor amendment, Senator DOLE or his des-

ignee be recognized to offer the next amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time? The Senator from Arkansas now has 55 minutes remaining.

Mr. PRYOR. Mr. President, the other speaker, I believe, under the schedule, was to be Senator BAUCUS of Montana. He is not present. Therefore, I ask unanimous consent that that slot be filled by Senator WELLSTONE from Minnesota.

The PRESIDING OFFICER. The Chair advises the Senator from Arkansas that under the order, the list that had been extant is now no longer relevant, and all time is under the discretion of the Senator from Arkansas as he chooses to allocate it.

Mr. PRYOR. Mr. President, I thank the Chair for that information and that advice. I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. Let me thank the Senator from Nevada before he leaves for what I thought was a really eloquent statement.

Mr. President, I will be brief. I was not going to get that involved in the debate, but listening to some of it today, it was difficult for me not to come to the floor.

I want to say to Senator PRYOR from Arkansas that I have a tremendous amount of appreciation and respect for what he is trying to do today in this Chamber, because I am absolutely convinced that the very best politics that there is, regardless of party identification, is when you make a connection between what you do here and what you hear from people back home.

Let us for a moment make this discussion very concrete. Ed Hughes, a retired printer, age 88, is supporting his 85-year-old wife with a lung condition and arthritis. A small box of pain pills cost \$53.

Ann Larsen, from Medina, her medicine went up in price from \$40 for an original prescription to \$100 for a refill.

Sylvia Hansen called our office in St. Paul. She has a heart problem. She has to take a vasodilator, so she has to buy very expensive health insurance. She has been on medication for 40 years, but her condition has been controlled and she has been able to work all these years. But it is a problem for her to be able to afford her medication. She cannot keep up with the increase in the costs. Her income does not go up as the cost of her medication goes up.

I think this should be heartbreaking to Senators. She says, "I have to choose between food and medication. I fear that I will end up being sick and in a nursing home, and the Government will take everything."

Chuck Cooper is the director of pharmacy at Hennepin County Medical Center in Minneapolis.

He purchases pharmaceuticals for inpatient and outpatient use. He reports—and Senator PRYOR is more of an expert; I probably do not pronounce this the right way—that Warfarin, a commonly used blood thinner, increased in price over 2,000 percent in 1 year. Could I repeat that? Over 2,000 percent in 1 year. In 1990, they bought a 1,000-milligram bottle of tablets for \$15.67. That is what the hospital bought it for. The price went up in 1991 to \$349.55 in 1 year, from \$15.67 to \$349.55. This is a percentage increase of 2,131 percent. That is absolutely astounding.

Mr. President, none of these individuals are here lobbying. None of them make big contributions. None of them have all of the financial wherewithal. None of them can be seen in the Halls of the Congress. I do not feel like their voice is really being represented except for the fact that we now have, for the first time, I think, in a long, long time in the U.S. Senate a Senator who is willing to step forward with a very moderate proposal.

Mr. President, I would like to conclude my remarks by asking the Senator from Arkansas one question. Once again, as I have listened to this debate, what is the Senator proposing to do? Is he proposing to regulate the pharmaceutical industry? I have heard that mentioned. I have heard the Soviet Union, which is no longer the Soviet Union, mentioned. Is the Senator proposing to seriously erode the capacity of pharmaceutical companies to engage in research? What is his proposal?

Mr. PRYOR. Mr. President, I reply to my distinguished friend from Minnesota, one, I am not proposing that the Federal Government regulate the pharmaceutical industry. We have no business regulating the pharmaceutical industry. They are a very entrepreneurial industry.

I must say that I think they have done many, many wonderful and wonderful things for us as a society, as a country, and as a world. However, I am proposing that the American people get a break, at long last, from the abuses of the Tax Code committed by the pharmaceutical industry.

That abuse has been section 936 of the Internal Revenue Service Code, which was discussed at length this afternoon and this morning on the floor, and it is my proposal that, for every increase over the cost of inflation for the pharmaceutical industry, they receive a decrease in the subsidies that the pharmaceutical industries get in producing the drugs in Puerto Rico because they get such an astounding, awesome tax break there.

There has also been, I might add in answering my friend from Minnesota, a number of statements about price fixing. I respond, there is no such thing as

price fixing in this legislation. The drug companies can charge any amount they want to for any drug that they produce. However, what we are saying is, if you go over the cost of inflation year after year, if you gouge the public, you are not going to be subsidized by the taxpaying public to the extent that you have been in the past.

I also respond to my friend that a few moments ago one of my colleagues came and said the pharmaceutical industry representative was in his office right now while he was on the floor, and he wanted to know how to respond to that pharmaceutical company representative, that lobbyist in his office. The lobbyist, or the representative, wanted to know how this Senator was going to vote.

I simply said, tell that very distinguished friend of yours who represents the pharmaceutical industry that for the past 30 years every time that industry has come and knocked on our door, we have said yes. We have said yes to patent protection. We have said yes to research and development grants. And they talk about all the research money that the pharmaceuticals spend. The taxpayers are paying for that research, I say to my friend from Minnesota.

Then we have said yes time and time again on the 936 tax break in Puerto Rico that allows them to deduct \$71,000 per every Puerto Rican they hire. We have said yes, yes for 30 years. And now I suggest that you tell your friend that we are going to say yes to some other people on the other end of the spectrum, some of those who are deprived, who need this necessity of life for prescription drugs that our manufacturers produce.

We are going to say yes to those people who are crying out to us for our help; we are going to say yes, for a change, to those people who have no one asking for a tax benefit but basically asking for mercy. The people that I am hearing from, and the Senator from Minnesota is hearing from, are asking for mercy.

Today I think this is what this legislation is trying to represent. It is what it is all about. I hope that we will see our way clear to answer that call, to answer those cries, and to try to give them some relief. We have given relief year after year to the industry. Now let us give some relief to the consumers.

Mr. WELLSTONE. Mr. President, let me just say to the Senator from Arkansas that such a reasonable proposal and the effort to do something about the dramatic increase in prices and to deal with the subsidies—it does not say the companies cannot make good profits; it does not cut into any of their ability to invest in themselves.

I would say to the Senator from Arkansas that in this day and age where we are constantly reading in the papers and constantly hearing on television

how disillusioned people are with politics in Washington, that I really think the vast, vast majority of people really appreciate what he is trying to do. Because this is an example of public policy that, for a change, goes directly to some real, concrete problems people are experiencing. The fact is that we have this opportunity in the U.S. Senate to take such action with such a modest proposal. I just hope we do not miss this opportunity.

I want to tell the Senator from Arkansas—I see the Senator from West Virginia—there are Senators here who hope for more comprehensive health care coverage. We all have different ideas. We all want to see that. This is just one small step forward. But it is really concrete, and it is helpful to people. I will bet in any poll 80 to 85 percent of the people in the country would be for it.

I hope this time, on this vote, that the vast majority of the people win out.

Mr. PRYOR. Mr. President, if I could respond briefly to my friend from Minnesota, I am very glad that he made the point about a more comprehensive package, a more comprehensive proposal that really goes to the whole issue of health care in the United States of America, and there has been no greater leader in that effort than the distinguished Senator from West Virginia [Mr. ROCKEFELLER], who is now managing the tax bill in the U.S. Senate.

I want to be a part of that comprehensive proposal. I want to be a part someday of that comprehensive package. I want to be a person or a Senator who plays a role in shaping that policy for our country. But until that policy is here, until that proposal is on the floor of the U.S. Senate, until that program has been laid out to us, or envisioned, then I am going to do everything that I can to try, one step at a time, to take one part of the health care crisis—and that part being prescription drugs and very quickly escalating costs of those drugs placed on those who are least able to afford them, least able to purchase them—I am going to be a part of trying whatever I can for cost containment in this particular effort.

And I pledge my effort to my friend from West Virginia. I pledge my best efforts to my chairman, Senator BENTSEN, and to all of our colleagues in the Senate, in the overall health care debate. But until that time, I think we at least have to start right here with something that deals with cost containment, and that is today, this moment, and today it is the business of the U.S. Senate.

I yield the floor.

Mr. MCCAIN. Mr. President, I wonder if my colleague from Arkansas has heard from organizations such as the National Black Caucus of State legislators, which I quote:

We have been very encouraged by the increased attention now being given to the status of health care in America. However, we are still very concerned that sufficient attention is not being given to the equally pressing issue of access to quality health care—particularly for the disadvantaged and low-income citizens. The legislation proposed by Senator David Pryor while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

I wonder if the American Diabetes Association has entered into the Senator from Arkansas' calculations. I quote:

The American Diabetes Association believe that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for disease such as diabetes.

The Urban League states:

For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups. We agree that something must be done to guarantee the poor access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

Mr. President, I think it is clear that either the sponsors of this legislation have disregarded, or do not care about, the views of the organizations such as the Urban League, National Coalition of Hispanic Health and Human Services Organizations, the National Black Caucus of State Legislators, and the American Diabetes Association. I think, frankly, Mr. President, that the views of those people should have been taken into serious consideration by the framers of this amendment.

I am deeply disappointed that they did not take into consideration the views of these groups, who represent amongst our poorest Americans, who seek and are very badly in need of not only the present drugs that are available in this Nation, but also the development of drugs to treat many of the terrible afflictions of the poor, elderly, handicapped, including those with diabetes in this country.

We all agree that health care costs have been rising at staggering rates. Last year, America spent more than

\$666 billion on health care, an amount we are told will rise to \$800 billion this year. Health reform is critical, but we have to make sure that in the process of reforming the system we do not further drive up costs or negatively impact quality of care.

While probably well meaning, I believe the amendment fails on both accounts. Our colleague from Arkansas is to be commended for drawing attention over the past couple of years to the rising cost of prescription drugs. His tireless efforts have produced results, as a great number of companies have taken steps to improve access to drug therapies; such measures as providing discounts to the Government, creating programs to ensure access to drugs for impoverished Americans and holding price increases at or near the inflation rate. They have been taken by such industry leaders as Johnson & Johnson, Searle, Pfizer, Abbott, Bristol-Meyers Squibb, Merck, Burroughs-Wellcome, Glaxo, Smithkline Beecham, Hoffman-La Roche, ICI, and Genentech.

In fact, at least one of these companies, Johnson & Johnson, has held the prices of their products in this area below the CPI for nearly a decade. More importantly, some of these companies have committed to maintaining increases below the CPI.

These voluntary measures are a positive step in the right direction. These companies ought to be commended. Nevertheless, more must be done, particularly by those companies that have not responded.

I am also concerned about the impact of the rising prices on consumers of health care, particularly the elderly, and I believe hastily conceived action such as increased bureaucratic regulations, price controls, and other drastic measures, will have catastrophic consequences.

First, is the stated goal of price controls. While it may sound like an attractive concept on the surface, price controls have historically done the reverse of what was intended. I wonder where my friend from Arkansas was during the reign of Richard Milhouse Nixon. We had price controls. Prices were not controlled. Prices went up.

Mr. PRYOR. Will the Senator yield?

Mr. MCCAIN. I will after I finish my statement.

Beyond turning the market upside down, and further driving up the cost of drugs, which clearly this amendment would do, I fear price controls would stifle the very research and innovation critical to developing breakthrough drugs to combat Alzheimer's, Parkinson's, cancer, and so many other dreaded diseases.

It takes 9 to 17 years to bring a new drug to the marketplace at a cost of more than \$200 million. When it gets to market, the company only has a few years to recapture the investment as a result of Congress' shortening the pat-

ent life for pharmaceutical drugs. While we all applaud greater competition through the promotion of generic drugs to bring down the cost of drugs, our prior actions on patents have increased the cost of drugs. Yet, some now seek to lay all of the blame at the feet of the industry.

I say to my friend from Arkansas, after I finish my remarks I will be more than happy to yield for any questions or comments he might have.

Second, it is interesting to me that, at a time when we are reeling from news of automobile plant closings and gratuitous insults to our workers by Japanese industrialists, some want to erode the competitiveness of the industry hailed in a March 9 *Fortune* magazine article as the most competitive U.S. industry with foreign countries.

This is one of the few industries in America that has a positive trade balance, and according to the U.S. Trade Representative, Carla Hills, this amendment could undermine our trade negotiating objectives and be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States.

While most countries would admire and nurture an industry who leads the world in pioneering life-saving medicines, that maintains a positive balance of trade and invests almost \$11 billion a year in research and development, some want to turn a gun on ourselves. If any punitive measures are to be taken, then they should be directed at nations that unfairly restrict the piracy and counterfeiting of patented drugs is a growth industry.

Third, is the issue of expanded regulatory bureaucracy. In point of fact, the current regulatory bureaucracy has been one of the factors that has driven up costs. The new bureaucratic body contained in this amendment was modeled after Canada's Pharmaceutical Product Review Board and would be damaging and counterproductive. Like the one in Canada, this board would have the power to compel pharmaceutical companies to license their products through other companies, thus, undermining patent protection.

This approach has resulted in Canada being the major industrial nation with the poorest climate for innovation, producing the least number of compounds to cure diseases in recent history. Given the annual combined United States pharmaceutical industry and Federal investment of \$18 billion in biomedical research, compared to Canada's \$240 million, it is little wonder Canada must depend on drugs developed in the United States to treat their citizens.

The thought of replicating Canada's experience worries me. I have already discussed my concern about the effect it will have on American's access to health care. I think, as I said before,

the views of organizations such as the Urban League should be taken into account.

The National Coalition of Hispanic Health and Human Services Organizations states:

The fact that the pharmaceutical industry is gouging the marketplace has not been effectively demonstrated.

The National Black Caucus of State Legislators states:

The legislation proposed by Senator David Pryor, while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

Mr. President, few Members of this body are more concerned about the effect of the rising cost of health care on our Nation's citizens—especially our senior citizens—than this Senator.

While the cost of prescription drugs is an issue of great importance to the elderly in my State, so, too, is the desire for drugs to combat Alzheimer's, Parkinson's, arthritis, cancer, and the other dreaded diseases. Any action in this area must balance both concerns, and I don't believe this amendment does.

Today, one-third of our Nation's health care dollar goes to care for older Americans. The Alliance for Aging Research has concluded that, by the year 2010, care for older Americans will consume more than 50 percent of the American health dollar. Much of this spending will go for the treatment of Alzheimer's, Parkinson's, osteoporosis, arthritis, and cancer. Today, many of these conditions result in costly hospital or nursing home stays.

We have a responsibility to make sure that our Nation's elderly receive the health care services which they need, but I believe it would be terribly short-sighted to impede research and development of new drugs for the cure and treatment of these dreaded diseases. Particularly, when the research and development could result in lower health care costs. An example is Alzheimer's disease, which currently strikes some 3 million Americans. According to a recent study of the National Institutes of Aging, the annual cost of Alzheimer's disease is a staggering \$85 billion. And, if we were able to delay the onset of this terrible disease for just 5 years, it would save some \$40 billion.

Mr. President, while the costs of some drugs are staggering, the average cost of a prescription drug in the United States in 1990 was \$19.91. Some drugs are very expensive, but look at their applications and the cost of the alternatives if these therapies were not available.

For example, a year of outpatient drug therapy costs less than \$300, while coronary bypass surgery carries a price tag of more than \$41,000, not to men-

tion the lost wages and enormous pain and suffering that come with such a procedure.

Ulcers are another condition that can be treated effectively with drugs. What's more, they are cost effective. Treating ulcers with medicine costs between \$200 and \$500 a year, while surgery to correct the same condition costs more than \$24,000.

Multiply these individual cost savings by the hundreds of thousands of people who could and do avoid surgery and are helped by drugs, and pretty soon you're talking about real money.

Rather than turning the market upside down, or pulling the rug out from underneath the industry's R&D effort, further driving up prices or halting efforts to find cures for the very diseases that strike fear in the hearts of so many Americans, we should take steps that can cut drug development costs and bring down the cost of drugs, without hurting innovation. First, we can streamline the drug approval process, which takes longer and costs more in the United States than in other countries. Second, we can improve the resources available to the FDA for their activities. Third, we could take tougher action against international patent pirates, who cost U.S. pharmaceutical firms about \$5 billion a year. And, fourth, we could cut product liability costs—which add millions to drug development costs—by reforming the tort system.

Mr. President, while the initiatives I am suggesting are more complicated than price controls, tax increases, increased bureaucracy, or weakened patent protection, they will reduce drug prices by improving the market rather than turning it upside down. In short, Mr. President, an attempt at a quick fix will not only provide the opposite effect, it will negatively affect the health of Americans well into the future—as the fruit of today's decisions will be borne out over the next 10 to 15 years. It is well to remember that today's drugs are the fruit of research and development expenditures of 10 to 15 years ago. Thus, when we spend money on research and development, we are investing in the future. Constraining the resources for research and development today will bring to a halt the flow of more and more innovative drugs. Not only will this deny today's and tomorrow's older Americans access to more effective drug therapies—it will leave them with no option other than a custodial nursing home stay—to which none aspire. What's more, a climate in which investment in research and development is a bad business decision will ultimately deny all of us the hope of more effectively containing health care costs.

In addressing the serious problem of rising health care costs, including rising prescription drug prices, we in the Congress have the responsibility to

look further than the quick fix, to seek solutions, rather than scapegoats. I fear that we are looking for a scapegoat here. All I can say is that the long-term consequences of doing the wrong thing will be catastrophic.

Mr. President, I believe this amendment is bad medicine for America.

The PRESIDING OFFICER. (Mr. CONRAD). The Chair recognizes the Senator from Utah.

Mr. HATCH. I yield 12 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator is recognized for 12 minutes.

Mr. CHAFEE. I thank the Chair. I thank the distinguished floor manager of the legislation.

Mr. President, there is no question but what we face a tremendous health care problem in the United States of America. Our problems are two-fold.

The first is that we have roughly 36 million Americans who do not have health care insurance. In most instances, they do not have the means of paying for health care.

The second great problem is that the cost of health care in this Nation is escalating at an incredible rate. It is far in excess of escalation of costs for food, shelter or for clothing. For example, in the 20 years from 1970 to 1989, the cost of health care in the United States rose 250 percent. So we have some real problems.

How can we handle these problems? There is a series of ways. One of the ways is to adopt legislation which I and others have introduced on this floor which would reduce the rate of growth of these expenditures by increasing utilization managed care, by enacting medical liability reform, to decrease the practice of defensive medicine which increases health care costs by greater use of outcomes research, encouraging what works and discouraging practices that do not work, by increasing preventive care services and trying to keep the population of our country healthy. We believe these efforts and others that have been introduced will be effective.

A second method of proceeding is to cap overall expenditures on health care. In other words, set a figure, that billions of dollars is all we are going to spend on health care in the United States. Canada has tried that approach. They decide how much money is to be spent. And the government sets priorities. There is not enough for everything; costs rise. So certain services are not immediately available or some services are not covered.

A third method of cost containment is through price controls. The government decides how much profit any group, that is the hospitals, the doctors, or the medical equipment suppliers, or the drug producers, are going to receive. And that is the result of the pending proposal.

I agree with Senator PRYOR in many respects. I agree that the cost of prescription drugs and other medical expenditures—let us not restrict this to prescription drugs, all of the costs of medical services are increasing and Americans are deeply disturbed.

So, more and more Americans are looking for a scapegoat and they found one they believe in the drug industry. The drug industry is profitable. I am not sure what is wrong with having a profitable industry. Regrettably in our Nation we have too many industries that are not profitable. Just take a look at the automobile industry that last year managed to lose \$7.5 billion, and I am sure that is not what we want for our model. But nonetheless, the drug industry is profitable. And Senator PRYOR laments that to a considerable degree as you have seen by his charts. Several drug companies have vowed to keep drug prices below the Consumer Price Index in the coming year.

We ought to encourage that. Clearly, the reason that the American public is more sensitive to drug prices than they are to hospital care or physicians' prices is that those other services are covered by insurance. Medicare covers doctors' bills. Medicare covers hospital costs. But Medicare does not cover the cost of outpatient prescription drugs. Those who are particularly hard hit are Medicare beneficiaries, especially principally the low-income beneficiaries.

I have introduced legislation which would give States the option of extending their Medicaid prescription drug benefit to low-income seniors who would not otherwise be eligible for Medicaid coverage. I would appreciate it if my colleague from Arkansas would join me in that legislation.

But it seems to me premature to resolve this problem by setting prices in the drug industry or setting prices in any other industry. To do so has all the consequences that have been previously pointed out on this floor.

There are a number of particular problems associated with the Pryor amendment. Let me just describe some of them, and if the distinguished Senator from Arkansas wishes to respond, I would appreciate that.

The effect of this legislation would be to take a snapshot, to take a specific period in time and say that those companies that were selling at that price would have to limit their increases to the Consumer Price Index thereafter or lose some part of their tax credit under section 936.

Let me give you an example. Let us say to produce a particular product costs \$4. We have two companies: Company A has been selling it for \$5, making a profit on the product as we expect them to. Company B has been selling the product for \$3.

Under the Pryor legislation, those companies would thereafter be limited in their ability to increase prices.

Is this fair? The company that was charging less is restricted in perpetuity to this low cost, cost to Consumer Price Index; the company that was charging more is locked in at the higher price and reaps the benefit of that higher price. That hardly seems fair.

There is another problem I would point out, and that is that this legislation fails to take into account significant increases in those supplies that are essential to them.

For example, their price increases are restricted to the CPI. But it may well be that the cost of research and development, those pharmacists, those doctors that the drug companies employ, the equipment that they must use—will increase far beyond the Consumer Price Index. I have had the privilege of visiting a drug company's laboratories where they are developing new drugs and anybody who makes this visit will be astonished at the sophisticated equipment that is used to help these companies develop new products. It seems to me that there should be a relationship between the cost increases of those items that are peculiar to the development of new drugs in computing what the price increases should be. Otherwise, we are indeed going to limit research and development within the pharmaceutical industry.

Finally, Mr. President, I would point out that the Senator from Arkansas has had an impressive list of charts showing how health care expenditures have increased and drug prices have increased. But, like everything, it depends on the data you choose.

For example, from 1988 to 1989, the latest year for which full data is available, total expenditures for health care increased by 11 percent. Health care expenditures went up 11 percent, a substantial amount. But expenditures for drugs and other non-durable medical equipment, it went up only 7½ percent.

So between 1988 and 1989, increase in drug expenditures in that year was less than the overall health care expenditures.

Another important point, Mr. President: Prescription drugs represent 7 percent of our total health care expenditures in the United States of America.

So that if we are really anxious in getting a grip on the health care expenditures, then let us not deal with just 7 percent. Let us wrestle with the other parts likewise—the hospital costs, the doctors' costs, the medical equipment costs, everything else that makes up that 93 percent of health care costs which is not represented by drugs.

I see the Senator from Arkansas here and I would appreciate it if he would be good enough, if he has some time, to respond to the particular question that I raised, and I will just restrict it to one.

Two companies producing the same product that cost them \$4 to produce.

One charges \$5 for the product, the other charges \$8. Under the proposal of the Senator, as I understand it, both companies will be hereafter locked in and only be able to increase their prices in accordance with the CPI or lose a portion of their tax credit under section 936.

So the good company that went out of its way to restrict its costs and held down its prices is going to be punished, as I understand the Senator's proposal. Whereas, the company that was charging more will clearly benefit.

Mr. PRYOR. Would the Senator like me to respond?

Mr. CHAFEE. If the Senator could possibly do it on his time, that would be very helpful. I am a little short of time.

Mr. PRYOR. Yes, Mr. President, I would be glad to respond to the question of the Senator.

The question is if there are two drug companies and they had to increase their prices because of supply increases, or one of them—this is really an irrelevant question. It is a good question but it is irrelevant. All that would happen is that those costs, if they had to go over the cost of inflation, they would lose that much commensurate with their 936 tax break in Puerto Rico. If they lost half of their tax break in Puerto Rico, it will still be the biggest tax break given to any industry in America today.

Mr. CHAFEE. Well, as the Senator well knows, 936 is not restricted to the drug industry, and I believe he has answered that previously; 936 applies to any company that has operations in Puerto Rico. The genesis of 936 was not to help the drug industry, the electronic industry, or any industry. It was designed to help Puerto Rico.

But my question really is, following what the Senator has proposed, is it not true that the good behavior is locked in as is the bad behavior? The bad company in my illustration, the one who was charging more, is permitted to keep in perpetuity this increase that he was charging and indeed can charge ever more because 10 percent times \$8 is more than 10 percent times \$5. Am I correct in that?

Mr. PRYOR. Mr. President, the Senator from Rhode Island has made a good point. But the issue is, in this legislation, S. 2000, which is the amendment before the Senate, what happens, the companies can charge anything they want to for their prescription drugs. They still get their research grants. They still get their tax write-off for doing the research for drugs.

Mr. CHAFEE. Well, every company gets that. Come on, now. Let us not suggest that writing off research is something unique for the drug industry. Thank goodness that Hewlett-Packard is permitted to do the same thing, as is IBM or any company in the United States of America.

Mr. PRYOR. Yes; but the drug industry has an additional write-off. They have an additional tax subsidy that your constituents in Rhode Island and my constituents in Arkansas are paying for today. That most generous subsidy is going to be lost by a percentage point if they increase their cost over the cost of inflation by a percentage point.

Mr. CHAFEE. Yes, that is my point. My point is that you are penalizing the good behavior. In the illustration I gave you, the product cost \$4 to make. One company charges \$5. The other company has been charging \$8. What you do in your legislation is you take a snapshot; you lock it in at this point. And the good company, the company that is charging less, is held to the \$5 figure, and the other company can stay at this \$8 figure.

If the company who is being the good fellow wants to work his way up to \$8, he is penalized if he is in excess of the CPI; am I correct?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHAFEE. Mr. President, I see nobody else desiring to speak. I ask unanimous consent for 2 more minutes.

Mr. PRYOR. Mr. President, I will yield Senator CHAFEE 4 additional minutes. And if I may respond to the question?

Mr. CHAFEE. Surely.

Mr. PRYOR. No drug company, in this amendment, Mr. President, is penalized. There is no penalty. All we are saying very simply is you are not going to get the same tax subsidies if you continue charging the American consumer the highest drug prices in the world. If you continue doing that, we are going to take away some of your non-research-related tax benefits and tax breaks. That is all this amendment does.

It is that simple, yet it has caused a great deal of consternation. And, I must say not intentionally, I am sure, but there has been a great deal of misinformation and misrepresentation.

Mr. CHAFEE. Mr. President, I am having trouble getting answers to my question. Let us assume everything you say, that if a company exceeds the CPI, they lose a portion of their tax credit; right?

Mr. PRYOR. They lose a portion of the tax break they receive today in Puerto Rico under the 936 section.

Mr. CHAFEE. And if you have two companies, one charging, for the same product, \$5, and the other charging \$8, as of now they are both even. In other words, if the \$8 one keeps his price, he does not lose anything. If the \$5 one keeps his price, he does not lose anything.

But if the good performer, the one who has only been charging \$5, said: I cannot recover my costs on that, I want to go to \$6; which, let us assume is in excess of the CPI, that company,

even though it is below the other company, will lose a portion of its 936 benefits?

Mr. PRYOR. What is going to happen, I would say, Mr. President, to that company charging \$5 today—and it is happening at this moment, probably, in the drug industry—when they anticipate a bill like this becoming law, they are all going to raise their prices, as they have done in the past, before we passed other legislation.

In fact, we were involved—the Senator from Rhode Island and I—2 years ago with some legislation on Medicaid. We tried to give the States a break with the pharmaceutical companies. The Senator from Rhode Island knows, as that law was being implemented the drug companies circumvented that very law in order to get around not only the letter but also the spirit of that law, and they went up on their drug prices to the Veterans' Administration, to the Veterans Hospitals, to the HMO's, and to the doctors and clinics around the country, unmercifully.

Mr. CHAFEE. Mr. President, I regretably have not received an answer to my question. But I can only assume that I am correct that the good performer is penalized and the fellow who is charging a good deal more than company A can continue to charge that under the illustration.

Mr. PRYOR. Mr. President, I am answering the question the best I can, and I apologize if the Senator is not satisfied.

Mr. CHAFEE. We learn from bitter experience, as the Senator pointed out. We were both involved in this a couple of years ago.

When you push in a certain area, something happens somewhere else. There is a cause and effect. The particular piece of legislation that the Senator referred to was the Medicaid rebate law. A company, if it was selling at a low price somewhere, would be required to provide that same price to State Medicaid programs. So what happened? They were selling to the VA at a 90-percent discount, and they would have to continue that discount to Medicaid. So, surprise, surprise; they were perfectly content to sell at this low price a very small percentage of their market. But when required to offer that low price to a large portion of their market, they did not continue selling at a 90-percent discount.

So it is a tricky business we are involved in here once you start with price controls.

Another point I might make, Mr. President, when a company comes out with a new product, they are going to say: We will be locked in, in perpetuity, to the price we originally set. So we are going to set a higher price—higher than they normally would have. And that is going to be one of the unfortunate consequences of this amendment.

And that is why, for example, the American Diabetes Association has discouraged the passage of this amendment; why the National Urban League has stated that measures such as this discourage the development of medicines that are important to their clientele and their membership.

Mr. President, what we really ought to do is not try to limit prices for 7 percent of the total health care market of the United States. I urge the Senator from Arkansas to join me and others and try to enact this year—this year, Mr. President; we can do it—true health care reform that will not just deal with 7 percent of the problem, but will deal with 100 percent of the problem, with a very good chance that we can limit cost increases in our entire health care system in rather a substantial fashion.

I thank the Chair.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I yield to my distinguished colleague, the Senator from Arkansas [Mr. BUMPERS] 12 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 12 minutes.

Mr. BUMPERS. Mr. President, as I have listened to the debate all day long, I have thought about all the speeches that have been made by Members of this body over the past 6 months about health care and national health insurance, and almost invariably the comment I hear is: Well, this bill is OK; and that bill is OK. But nobody is really addressing one of the basic problems and that is health care cost control.

Here we are debating cost in a rather unpleasant way, because every single person in the Senate—Republican, Democrat, liberal, conservative, and all in between—believes in the good old American free enterprise system. The free enterprise system has served us well. But still, from time to time, we have had to pass antitrust laws to stop some of the big boys from gobbling up the little ones; we have had to pass price-fixing laws to keep people from conspiring with their competitors to raise prices to the detriment of consumers.

Everybody is still committed totally to the free enterprise system and letting the marketplace work. But occasionally, when it becomes palpably clear that the system is not working as we want it to work, sometimes we have to step in.

And here we are—this is just a very small opening shot—trying to bring to bear some pressure on an industry that is obviously raising the prices of its products much faster than the rate of inflation.

I saw one of the factsheets that Senator PRYOR put out. It was pretty com-

elling to me. Dilantin, patented in 1953. And just since 1985—just since 1985—the price has gone up 69 percent. Maybe somebody has an explanation for that, but I did not see it; 11 percent a year for a drug that was patented in 1953.

Then another fact in Senator PRYOR's factsheet, and that is that Merck holds its prices to the inflation rate and they deserve some credit for doing that.

Another fact: Much is made about how much the pharmaceutical industry spends on research. Bully for them; I want them to. But let me tell you something. According to an Aging Committee report, they could raise their prices 1.5 percent a year—think about this; not the 11 percent I just mentioned—they can raise their prices 1.5 percent per year, and that will be enough to increase their research budget 10 percent per year.

Mr. President, every time the Wall Street Journal runs a little story about some biotech company being very close to some new drug to deal with some terrible ailment—sometimes it is an orphan drug, sometimes it is a suggestion that maybe we are even getting close to an AIDS drug—do you know what happens to that stock? It goes off the charts. I can name five companies right off the top of my head whose stock has gone up dramatically in the past year just because of some story in the New York Times or the Wall Street Journal. What does that tell you? That tells you that if they make it and they have a patent on that particular drug, they are going to make so much money the U.S. Mint could not keep up with them.

Mr. President, ever since I have been in the Senate, I have sort of taken a leadership role in the Senate making sure that the childhood immunization program is fully funded. I will never forget, in 1981, sitting down there in the manager's seat. I was not on the appropriate committee or anything, but the manager of the bill, simply because of my total commitment to the childhood immunization program, asked me to manage it. President Reagan was suggesting a \$6 million cut in the childhood immunization program from roughly \$25 million to \$19 million.

My adversary on the other side, who had been in the Senate about 4 months, was Senator QUAYLE, of Indiana. That side of the aisle had just taken over the Senate. They controlled it, and they won the vote. They won with one Democratic vote. But I got a couple of Republican votes. Within 3 months everybody in this body knew we had made a terrible mistake. Everybody was clamoring to restore the \$6 million, and we did.

But that only brings me to this point. In 1981, we were appropriating money for 1982, and we were talking

about \$25 million for the childhood immunization program. Ten years later, Mr. President, the cost of that program is \$300 million. A couple of things have contributed to the increase in program funding, and I want to be absolutely fair to my presentation. No. 1, we have added surcharges to the DTP, and polio, and measles-mumps-rubella vaccines to fund a program to compensate children who are injured by vaccines. The surcharges are substantial—\$4.56 for DTP; \$4.44 for MMR; and \$0.29 for polio vaccine suits.

In 1986, Congress enacted a compensation system funded by surcharges, and since that time we built up a substantial trust fund. At the same time, we said to all the people who suffered any kind of an adverse reaction from the childhood immunizations, "You can go through an administrative process, at the claims court and present your claim and, if you are not satisfied with what they find for you, you can still go to court and sue in tort. But if you choose the administrative remedy we will pay you out of this trust fund, which is funded by surcharges." It is a very good solution. It was long overdue. But it has increased the overall cost of the immunization program.

But let me tell you what else has happened. Follow me on this. It takes five shots for a full course to fully immunize an infant against diphtheria, tetanus, and whooping cough. So, Mr. President, in 1982, the cost of a dose, one dose of DPT was 37 cents. That is what a pediatrician had to pay for it. The States who buy it for their public health clinics were paying 15 cents per dose.

Incidentally, this discrimination between what the pharmaceutical companies charge a pediatrician and what they charge the Federal Government is a very hot issue with the pediatricians. They do not like it. But they paid 37 cents per dose in 1987, and today they pay \$9.97. But when you deduct the \$4.50 surcharge, they are still paying \$5.41 per dose. And, Mr. President, that is well over 1,000 percent increase in 10 years, not counting the surcharge. Nothing new, same old vaccine.

Polio: In 1982, the price was \$2.75 per dose, and today there is a very small 13 cent surcharge on polio. Forget that. It cost \$2.75 in 1982; \$9.32 today, a 300-percent increase.

Measles and rubella did account, back when Betty Bumpers was immunizing all the children in this country when I first came to the Senate, for 8 percent of all the people institutionalized in this country. Sometimes it is blindness, sometimes it is mental retardation. But the measles, mumps, rubella, a triple shot, in 1982 cost \$10.44, and today, \$25.29, a 150 percent increase. Now, there is a bargain for you, compared to 1,000 percent or 300 percent for vaccines that have been on the market for years and years and years.

Mr. President, I have told my colleague we own him a debt of gratitude. He is probably not going to prevail on the floor of the Senate. We owe him a debt of gratitude for having the courage to stand up and present this argument, if for no other reason than to show what is to come when we start trying to grapple with health care cost containment.

I do not like tinkering with the free enterprise system. I am not too crazy about taking away the tax exemption companies enjoy in Puerto Rico, but somebody else in this body tell me something better.

We do not always get to vote on something just as we would like it to be. We have to vote on it as it is presented. Nobody has done more than my colleagues from Arkansas to make the people of this country aware of how traumatic these pharmaceutical prices are, especially to the elderly people in this country.

My wife walked in the other night. She had laryngitis, could hardly speak. The druggist said that the prescription she needed was \$110. She said, "I am going to wear it out. I am not going to pay it. On second thought, I have a few antibiotic pills; I will just take those." He said "Are you serious?" She said, "I have never been more serious." He said, "I have a generic drug here, same thing for \$30." She said, "Well, why didn't you say so?" "Well," he said, "not many people want those."

She was mad because he had not told her that in the first place and walked out anyway.

But when she came and told me the prescription cost \$110, I had to ask myself what are the poor folks doing.

When you go home this weekend, I promise you within 24 hours after you get there, 1 or 100 people will have hit you up about this because they are having a hard time. How many of you have received a letter today from some elderly person who says, I am trying to make it on \$550 a month, and they just increased the price of this drug or that drug and I do not know how I am going to make it.

So while I may not like the solution, I go with what is available, not what I would like it to be. But again, Mr. President, I want to say to my distinguished colleague, as always, he is right on target about the magnitude of the problem. And if somebody else has a better solution, bring it to this body and let us vote on it. Right now this is the only alternative anybody has.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 5 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. Mr. President, I thank the chair and I thank my friend from Utah.

This is one of these issues and one of these debates where histrionics prevail and irrelevancy is heard throughout the land.

In the first place, a fair argument can be made that this amendment is unconstitutional. I have not been nominated to the Supreme Court, nor confirmed, but I have talked to enough constitutional lawyers who think it would not stand.

So, with all due respect to my distinguished friend and colleague from Arkansas, DAVE PRYOR, I am obliged to oppose his amendment. Regardless of how it is presented, no matter which way you turn it, this amendment would impose Federal price controls upon an American industry. We learned a long time ago that that does not work.

If this amendment were to be approved—and I do not think it will be—it would be a harbinger of subsequent efforts to convert America's medical system into socialized medicine. It's just as simple as that. Sure, our system has some warts, but it is still the best system the world has ever known. We must not destroy it by starting down this perilous path.

I know the Senator from Arkansas, DAVE PRYOR, does not want that, and he does not have that intent. His amendment has a certain amount of appeal. There will be many who will support it because they perhaps have not given thought to the consequences. Prescription drug cost containment—that is the name of the bill—has the ring of a laudable goal.

Let me tell you something, Mr. President. This Senator would like to see another kind of cost containment. How about putting some cost containment on the spending of the U.S. Congress, which has, in effect, driven up the prices on just about everything. If you want to understand the beginning of inflation, look at how much money this Congress appropriates and authorizes in excess of how much is needed to run a sensible government.

But, Mr. President, a more accurate title for the pending amendment, I think, would be the Pharmaceutical Industry Price Control Act, because that is simply what it amounts to.

I do hope that Senators will consider the ramifications of the pending amendment; not only on the research and development of new drugs but on the entire pharmaceutical industry and the entire medical system of the United States.

This amendment would establish a Prescription Drug Policy Review Commission, another bureaucracy, to study how a Federal pharmaceutical products price review board could be used to control prices in the United States. The board would be empowered to grant compulsory licensing of pharmaceutical patents, or limit market exclusivity.

Of course, inevitably this would significantly weaken our Nation's patent

system. It is also completely contrary to what the United States seeking through our trade negotiations in the area of intellectual property protection. In both GATT and the North American Free-Trade Agreement negotiations, the United States is pressing for international agreements to establish uniform, minimum patent terms and to prohibit compulsory licensing laws.

In fact, the intellectual property protection agreement the United States is pursuing with our trading partners would expressly prohibit the type of compulsory licensing scheme that the pending amendment would require to be studied.

Now, Mr. President, the American people are concerned, and rightly so, about the cost of all sectors of health care. They are also concerned about a lot of other things that have a price tag attached. They are concerned about how Members of Congress have increased their own salaries. There are a million things about which the American people are concerned, and of course the cost of health care is one of them. But it is only one of them. The pharmaceutical industry has come under unwarranted and sometimes vicious attack, unlike any other member of the health care industry.

Because the majority of prescription drug expenditures—72.4 percent—are paid out of pocket, most of the media attention and public concern have singled out drug prices. In our zeal to contain health care costs, we must not adopt flawed policies that will stifle innovation and destroy the hope for cost-effective new therapies.

The fact is that since 1965, prescription drugs have declined as a proportion of total health care spending and currently represents less than 5 percent of national health expenditures. In fact, pharmaceutical prices have not risen as fast as research costs or overall industry costs.

At the same time, Mr. President, the pharmaceutical industry is one of very few American businesses which currently enjoy a positive balance of trade, estimated to be nearly \$1 billion in 1992. It is the very success of these research-based companies that allows the U.S. drug industry to devote 17 percent of its revenues to the incredibly expensive and risky medical research and development activities necessary to develop a new drug—which takes approximately 12 years and an estimated cost of over \$231 billion per drug. In 1991, the pharmaceutical industry invested over \$9.2 billion in research and development—more than the National Institute of Health spends on all biomedical research.

Mr. President, the overwhelming benefits to consumers of drug research and development should not be lost in this debate. Pharmaceutical products are the most cost-effective means of con-

trolling health care costs. Revenues the industry receives today will finance the search for new medicines tomorrow. Senators should not lose sight of the favorable impact of drugs and their ability to prevent surgery, shorten or prevent hospitalization and decrease physician visits. This means lower costs and better health for the consumer.

It's this type of success and expansion that Congress should be encouraging. Yet, passage of the pending amendment would cripple the pharmaceutical industry's ability to research and develop drugs that may one day discover treatment for disorders such as osteoporosis, Alzheimer's disease, heart disease, and cancer. Who would we be helping then, Mr. President?

I urge my colleagues to remember that the principles underlying our free trade system, which the pharmaceutical industry is a large part of, include the expectations that investment be made to strengthen the business and that shareholders receive a dividend. Each requires the business to earn profits. For Congress to renounce those principles would chill the investments that have led to the discovery of virtually every significant medicine of the last five decades.

Mr. President, the research-based pharmaceutical industry's presence in my State of North Carolina is both significant and growing. Two companies, Glaxo, Inc., and Burroughs-Wellcome Co., have their U.S. corporate headquarters and a major part of their operations in Research Triangle Park. Thirteen other companies have facilities throughout the State. Over 16,500 citizens are employed by pharmaceutical industries in North Carolina. They have clearly become some of the most respected corporate citizens in my State.

I have heard from the pharmaceutical companies in North Carolina. They are keenly aware of the concerns Congress and the American people have with rising health care costs. This has led many companies, including Glaxo, Pfizer, Burroughs-Wellcome, Hoffman-LaRoche, ICI Pharmaceuticals, and Merck to voluntarily limit future price increases. I am sure that other companies, fearful of Federal price controls, have taken similar action.

Mr. President, the price control aspects of the pending amendment threatens the competitiveness of the important research based pharmaceutical industry and represents bad health care policy. I urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I suggest the absence of a quorum, with the time equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to the amendment offered by my distinguished colleague from Arkansas. I have a lot of sympathy with the cause. I have spoken on this floor a number of times about the leadership he has provided on this issue, usually when he was incapacitated, and unable to hear some of the nice things I have said about him.

A lot has been said today about the drug industry, and I will not repeat it. I would like to speak to a couple of related issues, one that I, as a member of the Finance Committee with my dear colleague from Arkansas, have had a fair amount of exposure to and interest in, and that is the issue of Puerto Rico; why we are in Puerto Rico, the relationship between what we do in the drug industry in this country and what goes on as far as the people of Puerto Rico are concerned.

For about 70 years now, Mr. President, the United States has provided tax benefits for American companies that operate in Puerto Rico and in other United States possessions.

One of the important reasons for adopting these tax benefits is that American companies operating in Puerto Rico incur higher operating costs as compared with other developing countries. Some of these are obvious to us, others perhaps less obvious such as minimum wage laws, or having to use United States-flag vessels. A lot of these subsidies are available for other industries that do business in Puerto Rico.

The key to economic development in Puerto Rico is section 936 of the Internal Revenue Code. It is a critically important tax benefit. It has encouraged many domestic companies to locate processing operations in Puerto Rico. Currently the pharmaceutical industry employs about 20,000 citizens of Puerto Rico.

Despite the incentives that are provided by section 936, the economy of Puerto Rico is fragile. Unemployment exceeds 17 percent. The Island's per capita income, while high compared to its neighbors, is still only \$5,100, less than a third of that on the mainland. Transfer payments to individuals, including pension, welfare, Social Security entitlements, are 21 percent of personal income in Puerto Rico.

So, Mr. President, under this amendment, pharmaceutical companies that

currently qualify for the section 936 credit would be allowed to continue to claim the full credit only if they keep their annual prescription-drug price increases at or below the Consumer Price index, or CPI. The determination of whether a pharmaceutical company is keeping its price at or below the CPI would be made on a drug-by-drug basis.

Certainly I and others would prefer that pharmaceutical manufacturers keep their prices at this level. Merck has been referred to, Johnson & Johnson tells me they have been at the CPI for 10 years across the board. But individual company pricing decisions are predicated on a lot of factors—competition, R&D, overhead, and the composition of drugs that are in the pipeline, and of course by the marketplace.

For some companies, patents are about to expire on some of their most profitable drugs, and those companies will face tough price competition from generics who bear none of the cost of bringing drugs to market. If they do not have new drugs in the pipeline they will be forced to incur increasing R&D expenditures to maintain future competitiveness. For some, the only way to finance extensive R&D is through higher profits on their patented products.

The sponsor of this amendment would ask us to believe that the 19 drug companies currently operating in Puerto Rico will make a drug-by-drug cost-benefit analysis to determine whether loss of a portion of their section 936 benefits can be more than recouped by raising the price of some of their drugs which are insulated from competition.

But these pharmaceutical companies have several other choices available to them. Let me just give you an example. They could choose to keep their current drug prices in line with inflation, then recoup far higher profits by setting artificially high introductory prices for new drugs brought to market.

Or, the pharmaceutical companies could file a host of supplemental new drug applications in an effort to replace old drugs with new drugs. A company, for example, that has been selling a 15-milligram valium may decide to end production and replace it with a 7.5-milligram valium. That could be construed as a new drug that gets a new pricing base.

But what will probably happen is that the pharmaceutical companies will move their Puerto Rican processing operations to a tax-haven country like Ireland, or a low-wage developing country in the Far East. Since this amendment does not affect foreign companies, some pharmaceutical companies may consider lowering the American flag and reincorporating abroad.

The end result will be the pharmaceutical price inflation will not diminish but jobs on the island of Puerto Rico will disappear.

Mr. President, if we in the Senate want to consider imposing price controls on all drugs sold in the United States—not just drugs manufactured by American companies in Puerto Rico—then let us engage directly in the debate. But let us not put at risk more than 20,000 jobs in Puerto Rico in the name of restraining price inflation in the drug industry.

I would conclude, Mr. President, by briefly addressing another component of this amendment—the establishment of a Prescription Drug Policy Review Commission.

The Commission, which is modeled after the Prescription Drug Payment Review Commission that was contained in the now-repealed catastrophic health benefit law, is to study the feasibility of establishing a Drug Products Price Review Board in the United States.

One of the Commission's directives is to submit a report to Congress that describes the feasibility of developing a system of compulsory licensing of pharmaceutical products or a reduction in the price in the period of market exclusivity for patented drugs.

Mr. President, for the past decade the United States has engaged in several confrontations with our trading partners including Canada, India, and Brazil over the issue of compulsory licensing. One of our goals in the current GATT round is to negotiate an end to both compulsory licensing of pharmaceuticals and restrictions on market exclusivity.

If the Senate today goes on record in support of the idea of compulsory licensing of pharmaceuticals, we will pull the rug out from under our negotiations who, for the past 6 years, have sought to provide American companies with uniform rules to protect their intellectual property. I can assure you that a vote for this amendment will not go unnoticed by the Canadians, the Brazilians, and the Indians.

Mr. President, my opposition to this amendment should in no way be construed as condoning the pricing practices of the pharmaceutical industry. I am pledged to find market-based solutions to the problems of escalating drug prices.

Not all these solutions need come from Congress. Why can they not come from those who provide us with medical care? How strong is the drug industry's commitment to real competition? How strong is organized medicine's commitment to controlling costs? Do they understand the economic pressures on American patients?

Mr. President, I urge the pharmaceutical industry to come forward with a commitment to work toward reducing the unjustifiable inflation that has occurred in this industry. Unless the industry changes, I am sure that the U.S. Congress will someday adopt some form of drug price controls.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from New Jersey is recognized for 5 minutes.

Mr. BRADLEY. Mr. President, I thank the distinguished Senator very much. I appreciate his strong opposition to the amendment offered by the distinguished Senator from Arkansas.

Mr. President, my bottom line comments in 5 minutes is to summarize points of view. If 936 is the problem, then I suggest the distinguished Senator from Arkansas introduce a bill to deal with 936. If health care cost is the problem, then deal with all health care costs, deal with hospital costs, deal with physicians costs, and not just pharmaceuticals.

What we need is comprehensive health care reform and not piecemeal health care reform, as particularly since pharmaceutical costs are only 7 percent of all health care costs in this country. If you are going to deal with only 7 percent of the problem and ignore 93 percent, then you have not really begun to come to grips with what the real problem is.

Reflect if you can 7 percent of all health care costs that are prescription drug costs in this country, but in West Germany 20 percent are prescription drug costs, 20 percent of all health care costs are prescription drugs, and in Canada, the country toward which the Senator's amendment would take us, 12 percent, nearly double, of all health care costs are caused by prescription drugs.

Points have been made and need to be reiterated. The pharmaceutical industry is a heavily research-oriented industry; \$9 billion a year is spent in research. That is the equivalent of the National Institutes of Health, \$231 million to bring a drug to market. Out of the drugs they begin to develop how many are brought to market? It is 1 in 5,000; 4,999 missed. Those do not develop. Only one does.

That one, of course, leads to patents in this country. Eighty percent of all biotechnology patents are developed in this country. I wish I could say that about all patents. I cannot. Fifty percent of United States patents go to the Japanese companies, but not in this industry. Eighty percent go to American companies.

If we have a breakthrough in a prescription drug, that ends up having a tremendous impact on wellness in the society and on costs. For example, in 1976, there were 155,000 bleeding ulcer operations. In 1977, a new drug was developed. Ten years later, there were only 20,000 surgeries, a cut of 90 percent of a surgical procedure in the hospital that ended up costing much more than the drug. But of course these people would still be in hospitals getting operations if the drug company has not in-

vested the money to develop the drug that could treat the problem at a much cheaper cost.

This industry also created 50,000 jobs in this country since 1980. They have a trade surplus, a trade surplus even with Japan.

So, Mr. President, I would hope that we would reject this move toward price controls that Senator PRYOR has envisioned and that we would instead look toward more comprehensive health care regulation. In the interim, we should not try to mix and narrow regulation of prescription drugs with tax provisions that relate to the pharmaceutical industry.

So I strongly hope that we will reject this amendment and that, instead, we will keep our pharmaceutical industry strong and healthy, generating jobs, generating patents, generating trade surpluses for the United States and, most importantly, delivering the drugs that will lengthen the lives of American consumers and American citizens. That is really the most important contribution that this industry makes to the well-being of the country.

And, of course, you want to tell people about these drugs. That is called marketing. You want to tell people how they can save their lives, lengthen their lives, and I find that appropriate. Some things obviously are not appropriate and have been done. I think the industry recognizes that some marketing excesses will be curtailed. But the research, jobs, patents, and the wellness of American have been furthered, I believe, by this industry and will not be furthered by this amendment.

Mr. HATCH. Mr. President, this has been a good debate on the amendment offered by my good friend, Senator PRYOR. It is exactly the kind of substantive debate that I think makes a difference on the Senate floor, as well it should be.

I know Senator PRYOR is dedicated to this proposal. I have to say that I admire him for that. I am just sorry that I have to disagree with my good friend. I am not going to go through several more pages of arguments and statistics that I have that address the points made by the Senator's amendment. Rather, I would conserve the time and ask unanimous consent for those pages to be printed at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

#### CANADIAN PRICE CONTROL SYSTEM

**Pryor Statement:**  
"The creation of a Canadian Patented Medicines Prices Review Board (PMPRB) has made the most significant contribution to restraining prescription drug price inflation in that nation."

**Response:**  
Canadian prescription drug prices are kept artificially low at the expense of innovation. Canada's pharmaceutical industry has created almost no new drugs since patent protection was limited there in 1969.

Because of the link of prices to market exclusivity, open-ended compulsory licensing and discrimination against non-Canadian products, the Canadian patent law is viewed as the worst of any OECD country, and among the worst in the world.

The U.S. Trade Representative, with strong bi-partisan support from the Congress, is working to get Canada to adopt the U.S. system. Why should we tell Canada that we are going to study adopting their system?

Ambassador Carla Hills has written Senator Packwood urging us to reject this study, because of the harm it could cause us in the GATT negotiations.

#### INDUSTRY RESPONSE TO PUBLIC CONCERN

##### Pryor Statement:

"After almost three years of continuous Congressional pressure on the drug industry to be responsible players in the health care system, one manufacturer has said, and a few have implied, that they will keep their prescription drug price increases on existing drugs to the general inflation rate."

##### Response:

At least six major pharmaceutical companies, responsible for about 30% of U.S. drug sales, have pledged to keep prices in line with inflation.

There have been two consecutive annual declines in drug price increases in the Producer Price Index for pharmaceuticals, from 9.5 percent in 1989 to 8.1 percent in 1990 to 7.1 percent in 1991.

The 1991 increase was the lowest recorded prescription drug hike in more than a decade.

Seven companies, responsible for about a third of the U.S. prescription drug market, have pledged to give rebates given to the Medicaid drug program to all federal Public Health Service clinics.

#### JOB LOSS ON THE MAINLAND

##### Pryor statement:

"There is some evidence to suggest that [the Section 936] tax credit encourages drug companies to close U.S.-based plants, fire workers and relocate to places such as Puerto Rico."

##### Response:

These allegations, by the Oil, Chemical and Atomic Workers International Union are either wrong or seriously misleading. A number of alleged plant closings never occurred—the facilities are still in full operation.

While total pharmaceutical industry employment increased in Puerto Rico by 17,200 from 1970 to 1990, total mainland employment for the industry also increased—by 89,000 positions.

#### DRUG INDUSTRY PROFITS

##### Pryor statement:

"\* \* \* the drug industry's annual average 15.5 percent profit margin more than triples the 4.6 percent profit margin of the average Fortune 500 company."

##### Response:

Pharmaceutical industry profitability is not out of line with other industries with similar skills and R&D intensity, according to Office of Technology Assessment research. OTA Health Program senior associate Judith Wagner, PhD, reported at a Massachusetts Institute of Technology symposium Nov. 20: "Estimates of pharmaceutical industry" profitability by Congress may be three- to four-fold too high, according to results of a study prepared for the Office of Technology Assessment.

"The OTA study found that 'the difference in the implied internal rate of return between pharmaceutical [companies] and other firms is about 2%-3%,' Wagner reported. 'So

the huge differential between pharmaceutical firms and other firms shown in the Senate Aging Committee report has been whittled away to a much smaller difference,' she commented."

"Wagner said that the study for OTA employed a relatively new methodology, which may be more accurate than the Senate committee's. The OTA study looked at 88 pharmaceutical firms operating between 1975 and 1987 and compared them to 88 nonpharmaceutical companies with similar 'skills' and 'R&D intensity,' Wagner said." (F-D-C Reports, Nov. 25, 1991.)

The most recent Business Week 1000 found that 14 of the 31 pharmaceutical companies surveyed either lost money in 1990 or made profits that were less than an investor could get without risk from a Treasury bond.

I'd like to respond to Senator Pryor's statement that we should accept the international price comparison figures because they are Secretary Sullivan's figures. Well, as Senator Pryor knows, HHS did not do a survey of price figures in the U.S. and abroad. The study was actually done by Farmindustria, the Italian pharmaceutical manufacturers association, and cited by the Office of the Inspector General of HHS. They did not originate with HHS. I just wanted to make that clear that Senator Pryor's figures did not originate with HHS, but with the Italian PMA.

The figures I used came from data gathered by the Organization for Economic Cooperation and Development. Instead of looking at the prices of individual drug products, which can vary from country to country as I've said simply because of currency exchange fluctuations, OECD's figures reflect how much is actually spent by each citizen, on the average, for his or her pharmaceutical products. OECD also uses a statistical method of allowing for differences in purchasing power among the different countries, so that lower earnings in one country or higher earnings in another are accounted for when comparing what the average person pays.

Mr. HATCH. Mr. President, I ask unanimous consent to have an article that appeared in Science magazine on May 24, 1991, printed at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Science magazine, May 24, 1991]

#### ARE PRESCRIPTION DRUG PRICES HIGH?

(By P. Roy Vagelos)

(The U.S. pharmaceutical industry has been criticized because its products are perceived to be too expensive, yet prescription medicines remain the least expensive form of therapy. At this time, we are experiencing a dramatic increase in the risks and costs of pharmaceutical research and development (R&D). An example may be seen in the R&D history of lovastatin. The U.S. pharmaceutical industry continues to lead the world in the discovery and development of important new medicines because it assumes greater financial risk and invests more of its sales dollar in R&D than virtually any other industry. Where such a risk is posed, there must continue to be the potential for profits. Pharmaceutical companies must set responsible prices, must keep price increases down, and must help improve access to important medicines.)

In the pharmaceutical industry, the odds, against success, whether statistical or financial, are daunting. Most research projects fail. On average, according to a new study by

investigators at Tufts University (1), it takes 12 years, from synthesis to regulatory clearance, to bring a prescription drug to market in America. The average costs, which includes discovery and development, for one prescription medicine is \$231 million (2).

Despite these obstacles and the financial risks they entail, the American pharmaceutical industry remains the world leader in the discovery and development of important new medicines (3). However, there are two basic threats to that leadership position, as witnessed by the decline in U.S. industry share of the worldwide pharmaceutical market from 38% in 1985 to 33% in 1989 (4). The first threat is to American preeminence in basic biomedical research, as evidenced by the deterioration of our system of science education, the looming shortage of American scientists, and the fact that Japanese inventors are now often first to arrive at the U.S. patent office with basic research discoveries (5). The second threat is the possible regulation of pharmaceutical prices, which would reduce the potential for the profits necessary to support the research investments of pharmaceutical firms. Historically, in the United States, when a firm has invested and worked against the odds to discover, develop, and market a new medicine, the firm has been free to charge a price that would produce rewards for investors.

In recent years, however, pharmaceutical companies have come under mounting criticism for their prices. Although the pharmaceutical portion of the American health care dollar continues to shrink (6), increases in the total cost of health care have become a matter of concern to the public and to public policy-makers. In that context, the high visibility of medicines has made them a special focus of concern, especially because their price increases, which were negligible through much of the 1970s, usually exceeded the general rate of inflation in the 1980s (7). This article deals with the cost effectiveness of pharmaceuticals, their pricing, and their profitability, and the fact that, as pressures to contain prices are increasing, so too are the risks and cost associated with pharmaceutical R&D. It concludes with a look at how these factors might affect patient access to new medicines and the attendant industry responsibilities.

#### COST-EFFECTIVENESS OF PHARMACEUTICALS

Pharmaceuticals are only a small component of our nation's health care cost, accounting for only 7% of total U.S. health care costs, compared with 12% in 1965 (6). Although the primary goal of pharmaceutical research is to save lives and ease suffering, it can also save health care dollars. In 1990 alone, for example, the projected cost of cardiovascular disease and stroke to the U.S. economy was \$95 billion, including the costs of hospital days, disability days, and \$33 billion in medical care expenditures, not to mention the countless potential years of life lost before the age of 65 (8); for acquired immunodeficiency syndrome (AIDS) including the loss of productivity, the estimated 1990 cost was \$26 billion (9). In 1989, cancer cost the nation \$100 billion (10), and Alzheimer's disease cost \$80 billion (11). Even if each of the medicines that may eventually be found to prevent or treat these diseases became a tremendous commercial success and generated \$1 billion a year in sales [only three medicines did that in 1989 (12)], patient costs for the medicines would be far less than the costs of the diseases.

Viral diseases of childhood provide a striking example of the cost-effectiveness of modern pharmaceuticals. In 1983, the nation's

health bill for measles, mumps, and rubella vaccination programs came to \$100 million. According to the U.S. Public Health Service, the cost of these diseases, in contrast to the cost of preventing them, would have been \$1.4 billion (13).

Studies suggest that Medicaid expenditures for patients taking anti-ulcer medicines, the H<sub>2</sub> antagonists cimetidine and ranitidine, may be 70% less than for ulcer patients who do not take an H<sub>2</sub> antagonist. The reason is that patients not taking an H<sub>2</sub> antagonist have a much higher incidence of hospitalization and surgery than patients who do (14). Other studies show that antibiotics save money by shortening hospital stays (15).

Benign enlargement of the prostate gland affects at least 50% of men over the age of 50 (16). Today, for those in the advanced stages of the condition, surgery is the only option and more than 400,000 prostate operations per year are performed in the United States, with a mortality rate of approximately 1% and a cost of nearly \$3 billion (17). At Merck, after 15 years of development, a promising new enzyme inhibitor to control this condition is awaiting marketing approval from the U.S. Food and Drug Administration (FDA). The drug is designed to inhibit the synthesis of a hormone, dihydrotestosterone, that is associated with prostate growth, thereby hopefully shrinking the enlarged prostate. Because regression of the enlarged prostate is maintained and data suggest that Proscar can halt the progression of the disease, a long-term study is planned to demonstrate reduction in the need for prostate surgery.

#### PRICING AND PROFITABILITY

In terms of pricing I can speak only for Merck because it is the only company whose pricing procedures I am familiar with and because antitrust laws prohibit any inter-company pricing discussions or practices. One of the most difficult challenges faced in marketing a new prescription medicine is the question of how much to charge for it. What is its value to society? To the individual patient? If cost-effectiveness were the final arbiter of pricing decisions, most pharmaceutical prices could justifiably be much higher than they are. At Merck, it is important to establish prices for our products that will produce an appropriate return on our research investment and maximize patient access. If the price is too high and the patient cannot afford the medicine, we have not fulfilled our reason for existence.

The basic principle governing the free enterprise system is that free and unrestrained competition should force fair prices. The more segmented the industry, the truer that is, and the pharmaceutical industry, led by Merck with a 9.3% U.S. market share and a 4.9% worldwide share, is highly competitive.

Research and development costs are a major consideration in setting the price of a new medicine. In general, the more expensive the research project, the higher should be the price of the resultant medicine. But the costs of R&D for a particular medicine are difficult to determine. At Merck, for example, our 4500 people in research are working at any one time to develop scores of investigational compounds and to invent hundreds more. In less than 6 weeks they work 1 million hours. It is impossible for us to pull out the costs of the successful projects that contribute, directly or indirectly, to the discovery and development of the rare compound that eventually becomes a prescription medicine. It is also impossible for us to isolate costs for all of the individual

projects that fail. What we do know is that, on an industry-wide basis, counting all of the investments in the failed and successful projects, it costs \$231 million (1, 2), on average, to bring one new prescription medicine to market in the United States.

Prices of existing therapies and competitive products already on the market are another consideration in establishing the price of a new medicine. When we introduced the anti-ulcer medicine famotidine to the U.S. market in 1986, the average price charged to the patient for one 40-mg tablet, the usual daily dose, was \$1.89, which was comparable to the average prices of \$1.83 for cimetidine and \$2 for ranitidine (18) for equivalent dosage strengths.

For medicines that the company believes are clearly superior to earlier products, we do charge more. Such was the case when, in 1987, we introduced lovastatin, which the FDA had placed on the fast track for regulatory approval. The \$1.57 a day cost to the average patient represented a premium over the \$1.19 a day average patient cost in 1987 for gemfibrozil (18), the most widely prescribed cholesterol-lowering agent at that time.

When pricing a new medicine, we also have to consider the number of years of patent protection remaining. In the United States the patents on most new products from other, nonregulated industries are only months old when they reach the market (19). In contrast, the average patent life of a prescription medicine when it reaches the U.S. market is significantly less than the original 17-year patent term mandated by Congress. Although the Drug Price Competition and Patent Term Restoration Act of 1984 enables the restoration of up to 5 years of patent term on a number of newly approved innovative drug products, this is only a partial restoration for the years of patent life lost during the development and regulatory approval of a new drug. In the best case, with patent term restoration, we can obtain a maximum of 14 years of patent protection from the time of regulatory approval. Through May 1990, the U.S. Patent and Trademark Office has granted 77 restorations of patents of human or animal drug products, resulting in an average of 10 years and 7 months of effective patent protection for these drug products (20).

We always set out to price our products at similar levels from country to country. But variations in government price controls, exchange rates, dates of new drug approval, health care financing practices, and other factors tend to result in different prices for different countries. Above all, the company assumes a responsibility to make its products available to people who need them. So in countries where we believe prices for innovative medicines are set unfairly low, we try to market our medicines at those prices while lobbying for a change in the government's pricing policy.

The U.S. pharmaceutical industry has introduced a large majority of the world's new prescription medicines. In fact, there are only three other nations that have contributed to drug R&D in a meaningful way: the United Kingdom, Switzerland, and Germany. These four countries have contributed 80% of all significant products introduced in the last five decades, with the United States alone being responsible for one-half (3). Japan is developing quickly and may join this group in the near future (5). All five countries encourage innovation and reward success through pricing policies that are liberal, at least in the establishment of initial prices.

The perception of high prices leads to a perception of excessive returns, but an examination of the industry's profitability brings about a more realistic perspective. Return on assets (ROA) is the measure of cash flow as a percentage of gross assets and is an accepted measure of profitability for most industries. The 1989 average ROA for eight leading U.S.-based health care companies was approximately 16% (21). This percentage was based on an accounting methodology that considers research to be an expense rather than an asset, and the methodology does not factor in the lengthy time period required for drug development. Consequently, the accounting model makes the ROA number of the pharmaceutical industry appear high when compared to ROAs for other industries.

In order to provide a more realistic picture of returns for research-intensive industries, an economic ROA model, based on one developed by Kenneth Clarkson at the University of Miami, may be used. In this model, gross assets include R&D expenditures, which are capitalized and amortized on the theory that a firm's R&D expenditures to develop new products are part of the firm's economic asset base. Cash flow is also adjusted to reflect the capitalization of R&D. The economic ROA model would lower the ROA results for any industry, but the effect would be greatest for the research-intensive ones. The average 1989 R&D expenditure, as a percentage of sales, for the eight leading health care companies was 9%, as compared with the average of 8% spent by computer companies, 5% by chemical companies, 1% by oil companies, and 2% by food companies (22). For 1989, the economic model gives an average ROA for the group of eight leading health care companies of approximately 11%, much lower than the 16% computed by the accounting model.

#### INCREASING RISKS AND COSTS OF PHARMACEUTICAL R&D

The odds against getting a compound to market have been cited, for some years now, as 10,000 to 1 (23). This means that for every 10,000 substances examined, 20 enter animal studies, and 10 enter clinical (human) trials—but only one gains U.S. FDA approval. Regardless of the statistical measurement of the odds, which is somewhat artificial and may not reflect more recent approaches to drug discovery, the overall difficulty of the tasks facing biomedical researchers has actually increased over recent years because of the complexity of the diseases that still plague us.

The latest estimate of the cost of bringing a new medicine to market, \$231 million, is almost double the amount, adjusted for inflation, determined 9 years ago (24). The reasons for the sharp increase suggested by the authors of the study are that the new research technologies are expensive, and the diseases for which treatments are being sought are complex. Approximately one-half of the \$231 million is the total cost for work on failed compounds plus all the R&D costs, from researchers' salaries to new laboratory equipment, for the one successful compound. The other half is the capitalized expenditures, or the so-called opportunity cost of having funds tied up during the 12-year period of development (1, 2).

Compounding the risk and financial cost of bringing a drug to market is the shorter product life cycle of new prescription medicines. Generic drugs gained easier, faster entry to the market with the passage of the Drug Price Competition and Patent Term Restoration Act of 1984. But an even greater

impact on the average market life of a breakthrough compound has come from the rapid introduction of so-called follow-up medicines, which are chemically different from the breakthrough compound but are based on the same mechanism of action. They are introduced after the breakthrough drug has been shown to be safe and effective and can compete with it before its patent expires.

Seven of ten marketed prescription medicines do not recoup the average cost of R&D. An analysis of total sales performance of 100 new chemical entity medicines introduced from 1970 to 1979 showed that the medicines barely recouped the total of the R&D investments (25). If the economic performance of the anti-ulcer drug Tagamet (cimetidine) is removed, the result for the entire portfolio is lower than the cost of R&D. A highly successful breakthrough product is necessary if a company is to keep pace with R&D investment and the cost of capital.

In 1975, the year I joined Merck, the chief executive officer was concerned that for some time the company had introduced few important new medicines in the United States, despite having spent approximately \$500 million dollars on R&D in the previous 10 years. But he did not cut back. Instead, he increased the R&D budget. The company had been experiencing what industry analysts call a "dry spell," but the term can be misleading because it implies that research has been unproductive. In Merck's case, in 1975, the discovery work and much of the development work had been done for several important new medicines, and the chief executive was confident of their eventual marketing. The result of the company's persistence—the paradox of the high-risk pharmaceutical business is that the route to success is to invest more—was the introduction of a number of important new products for arthritis, hospital infections, glaucoma, and muscle spasms. Another so-called "dry spell" occurred for the company from 1979 to 1985 with few product introductions. This was followed by an unprecedented flow of new products, culminating in the introduction of lovastatin in 1987.

The total Merck R&D expenditure for the period 1969 to 1989 was about \$5.7 billion. For the 20 years from 1969 to 1989, R&D expenditures grew at a compound annual rate of over 13%, and that growth rate has increased over recent years. Our 1990 R&D expenditures were \$854 million, up from \$750 million in 1989. Some analysts, reflecting American businesses' myopic view of financial performance, reported that we were spending too much on R&D in 1990, and that this outlay might possibly hurt our short-term earnings. In 1991, we intend to spend \$1 billion.

#### DISCOVERY AND DEVELOPMENT OF LOVASTATIN

By the time I joined Merck in 1975, company scientists had been studying cholesterol biosynthesis for more than 20 years. I decided we would devote large resources to the cholesterol project and use this as a test of my belief that recent breakthroughs in the sciences, especially biochemistry and enzymology, had made a rational research approach feasible. We would focus on enzyme inhibition as a major tool for the laboratories because so many of history's great drugs, from aspirin to penicillin, were eventually shown to be enzyme inhibitors. To head the cholesterol project I selected Alfred W. Alberts, who had worked with me in lipid biochemistry at the National Institutes of Health and Washington University. An abbreviated chronology of the road to lovastatin is presented below.

Early 1950s: Jesse Huff and associates at Merck began researching the biosynthesis of cholesterol, building on contributions made over many years by leading researchers such as Konrad Bloch and Feodor Lynen (26).

1956: Karl Folkers, Carl Hoffman, and others at Merck isolated mevalonic acid (27). Huff and associates then demonstrated that mevalonic acid could be converted into cholesterol (28).

1957: Not then aware of the significance of the discovery of mevalonic acid, Merck scientists continued through 1956 and into 1957 to look for resins that would bind to bile salts (derived from cholesterol in the liver) in the intestine. After having tested over 100 resins, they found that one (cholestyramine) reduced cholesterol from 10 to 15%. But the sand-like texture of the product made it unpalatable, and constipation was an unpleasant side effect.

1958 to 1959: 3-Hydroxy-3-methylglutaryl-coenzyme A (HMG-CoA) reductase, the enzyme that converts HMG-CoA into mevalonic acid, was shown by Feodor Lynen, Peter Overath, and Nancy Bucher at the Max Planck Institute to be a major rate-limiting step in cholesterol synthesis (29). Other investigators showed the reductase could be manipulated by diet or other environmental factors (30).

1960s: The fibrate compounds worked so well in rodents that many companies continued research programs on them throughout the decade. (It turned out that rodents were poor animal models for other cholesterol-lowering agents.)

1973: Michael S. Brown and Joseph S. Goldstein of the University of Texas Health Science Center discovered the importance of receptors for low-density lipoproteins (LDLs), particles circulating in the blood that carry most of the blood cholesterol (31).

Andrew Kandutsch and Harry Chen of the Jackson Laboratory in Bar Harbor (32) and Brown and Goldstein (33) reported that oxygenated sterols decreased the activity of HMG-CoA reductase in cultured cells. Merck and other companies pursued the lead, but this class of compounds proved unsuccessful. Sterols were effective *in vitro* but not in animal experiments.

1974: Merck scientists set up a cell culture assay in an attempt to identify substances that were potent specific inhibitors of the enzymes of cholesterol synthesis.

1976: In work that began at Washington University in 1974 and ended at Merck in 1975, Alberts, T. Y. Chang, others, and I showed that animal cells with a single enzyme defect lost the ability to make cholesterol and, as a result, lost their viability. When such cells were supplemented with cholesterol, they grew normally (34). In Japan, Akira Endo and co-workers succeeded in isolating a compound, called compactin, and showed that it was a specific inhibitor of HMG-CoA reductase and that it functioned *in vivo* to block cholesterol synthesis and lower cholesterol levels in the blood (35).

Fall 1978: After spending 3 years developing systems to search effectively for HMG-CoA reductase inhibitors in an assay that measured the formation of mevalonic acid from HMG-CoA, Alberts and staff began screening microbial extracts. At the beginning of the second week of testing, Chen noted that no mevalonic acid had formed in one particular assay. Retesting of the sample confirmed its inhibitory activity (36). It is unusual to meet with such quick success; frequently, thousands of samples have to be tested.

December 1978: Alberts showed that the extract prepared from the organism blocked cholesterol synthesis in cultured cells (36).

February 1979: Hoffman, who helped discover mevalonic acid 22 years earlier, and associates isolated the pure inhibitor, lovastatin, from the fungal microorganism that was identified as *Aspergillus terreus* (36). Endo isolated monacolin K, a compound identical to lovastatin, from a different organism, and he filed for a Japanese patent, based on inhibitory activity alone, without providing structural data (37).

June 1979: Merck filed for a U.S. patent on lovastatin, complete with structural details.

August 1979: Merck scientists, after crystallizing lovastatin and implementing special isolation and fermentation techniques, undertook animal toxicology studies (38).

April 1980: Clinical trials began (39).

September 1980: I made the decision to discontinue clinical trials of lovastatin because of rumors (to this day never substantiated) that the closely related compound, compactin, caused certain cancers in dogs. Nothing we had seen with lovastatin had given us any cause for concern, but we could not ignore the rumors about a chemically related HMG-CoA reductase inhibitor. It appeared that the lovastatin project was dead.

November 1980: A patent was granted for lovastatin in the United States (40) and subsequently in a number of countries abroad. In other countries, patents went to Sankyo for monacolin K.

July 1982: Merck made lovastatin available, under an arrangement approved by the U.S. FDA, to several prominent clinicians, including Roger Illingworth of Oregon Health Sciences University and Scott Grundy and David Bilheimer of the University of Texas, who had asked for it to treat patients with severe hypercholesterolemia unresponsive to available agents. The drug showed dramatic activity in lowering LDL cholesterol and total cholesterol in the blood, with very few side effects (41).

August 1982: We reinstituted animal studies.

May 1984: We began long-term toxicology studies in dogs and large-scale clinical tests in patients at high risk of coronary disease. Clinical results were apparent within months. No agent had ever effected such dramatic drops in cholesterol levels. The drug was well tolerated, unlike some previous cholesterol-lowering agents (38).

October 1986: The results of our long-term toxicology studies in dogs were analyzed. The studies included extremely high doses. No tumors were noted (38).

14 November 1986: We sent our New Drug Application (NDA) to the U.S. FDA: 160 volumes of human, animal, and *in vitro* data.

31 August 1987: Lovastatin was given FDA approval for patients with high cholesterol levels that could not be reduced by diet. The drug was later approved for marketing in 42 additional countries.

The reports of dramatic medical results from lovastatin therapy had been coming to us since 1982. Total cholesterol levels of 300 mg/dl and above dropped to around 200, to the initial astonishment of the physicians conducting the trials. Patients with blood cholesterol levels of 450 mg/dl and above, who had undergone coronary bypass surgery, and in some cases cardiac transplants, had decreases, within weeks, of 30% or more in blood cholesterol (42). We believed we had produced a breakthrough medicine. Our NDA, which the FDA approved in just 9 months, included data on more than 1200 patients, and the agency judged the drug to be safe and effective. But, to be sure that there were no side effects too rare to be picked up in clinical trials, we carefully monitored its

use after marketing approval because that is the ultimate test of any new medicine—its use by many patients in uncontrolled settings. Extensive scientific studies further defined safety and efficacy.

#### IMPROVING PATIENT ACCESS TO MEDICINES

The history of the discovery and development of lovastatin illustrates well the interdependence of basic and applied pharmaceutical research, as well as how long, tortuous, and risky the pharmaceutical discovery and development process can be. Only the potential for significant reward would assure continued investor support for such high-risk investment. Innovative pharmaceutical companies are in business to make money, as well as to market new medicines, and unless they do both, they would be out of business, and the flow of new medicines would be reduced.

At the same time, a pharmaceutical company should recognize the importance of exercising price restraint. Figure 1 compares the price index of Merck medicines, the Consumer Price Index (CPI), and Merck's spending on R&D. Between 1969 and 1973, while inflation pushed consumer prices up substantially, Merck had virtually no price increases. During the rest of the 1970s, Merck did raise prices periodically, but still at rates much lower than inflation.

During the 1980s, in order to narrow the gap between the CPI and the Merck price index and thus recover some portion of what we had lost to inflation, we increased prices faster than the rate of inflation during the decade. Over the full 20 years, however, the CPI rose from 100 to 336 (43) while Merck's price index increased significantly less, reaching 287 in 1989. Meanwhile, the company's spending for research and development over the 20-year span rose much more rapidly, up from an index of 100 in 1969 to more than 1200 in 1989. In both 1989 and 1990, our price increases amounted to 4.7 percent, lower than the rate of inflation for each year and also well below the pharmaceutical industry average. Merck's price increases on individual product lines ranged from 0 to 5 percent.

Last year, Merck announced a goal of keeping future price increases within the rate of inflation in the United States and of generally limiting price actions to one per year, given stable market conditions and government policies that are supportive of innovation. Responsible pricing and distribution practices can help ensure that patients can obtain the medicines they need. The special nature of its products demands that the pharmaceutical industry, more than perhaps any other, be responsive to social needs.

Merck also announced last year the Equal Access to Medicines Program aimed at overcoming the current lack of availability of some important medicines to poor people under Medicaid. In return for a discount that reflects a pharmaceutical manufacturer's lowest U.S. prices, states would include more open access to medicines, particularly new medicines, under their Medicaid plans. A majority of states quickly accepted the Merck program. In October 1990, Congress enacted legislation that substantially incorporated the policies embodied in the Equal Access to Medicines Program. The legislation will facilitate price discounts for the state and federal Medicaid programs and mandate that all 50 states provide more open access to medicines.

Special efforts must be made to get important medicines to the poor in developing countries. In 1987, Merck announced that we would donate our breakthrough medicine

ivermectin, for the control of river blindness (onchocerciasis), wherever it is needed for as long as it is needed. In most cases, a single yearly treatment with ivermectin would prevent the ravages of onchocerciasis, a centuries-old parasitic disease that now affects an estimated 18 million people—primarily in West and Central Africa but also in Central and South America—and threatens 85 million more. This effective and well-tolerated drug has been called one of the most important breakthroughs in tropical medicine in this century (44).

Merck did not set out originally to give the product away; however, most of the people who need it are poor and live in remote places. After months of discussions with international aid organizations that were prospective buyers, we realized that the process of obtaining funding for purchases of ivermectin would take too long. Meanwhile, people were suffering and sometimes going blind.

More than a million people are covered by ivermectin treatment programs to date. But the medicine must somehow reach millions more. If we can reach a sufficient number of people, the disease can be controlled as a major public health problem. In theory, river blindness could even be eradicated, provided it were possible to have every person harboring the parasite take ivermectin annually for at least 10 years. Merck is committed to trying.

When Merck management was debating whether to donate ivermectin for the control of river blindness, we considered many factors, including the loss of potential revenues, the major marketing challenge involved in getting the medicine to people in remote areas of the world, and the question of what impact the donation would have on research for tropical diseases. Would the donation be a disincentive to other firms? Since making the donation decision, we have heard no criticism.

The innovation-based pharmaceutical industry is committed to improving the quality of health care through pharmaceutical research. That commitment must extend to keeping prescription drug prices at reasonable levels, for good new therapies are useless if patients cannot access them. If a pharmaceutical company can meet these demands of the market—innovation and reasonable pricing—profit will follow.

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Mr. HATCH. Mr. President, *Science* is published by one of the Nation's leading scientific societies, the American Association for the Advancement of Science. This particular article is by P. Roy Vagelos, who is chairman of the Merck Pharmaceutical Co., and entitled "Are Prescription Drug Prices Too High?"

I commend it to my colleagues and hope they will take some time to read it. I think it blows all of those arguments on the other side to bits.

Finally, I ask unanimous consent to have printed in the RECORD 13 letters that I have in my possession that we have received from a variety of organizations in our country.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH  
AND HUMAN SERVICES,  
Washington, DC, March 6, 1992.

Hon. LLOYD BENTSEN,  
Chairman, Committee on Finance, U.S. Senate,  
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2000, a bill "To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes."

We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it.

S. 2000 would reduce the tax credit available to drug manufacturers operating in Puerto Rico, to the extent that increases in prescription drug prices exceed the consumer price index.

By October 1, 1992, the Secretary of Health and Human Services would have to establish at least 15 demonstration projects that would last 5 fiscal years to assess the impact on cost, quality of care, and access to prescription drugs of developing a Medicare outpatient prescription drug benefit and the impact on cost and quality of care of extending coverage of outpatient prescription drugs to Medicare beneficiaries served by community

health centers. The demonstrations would provide coverage to all drugs and biologicals approved by the Food and Drug Administration and all medically accepted indications listed in the three national drug compendia. There would be a Drug Use Review Board that would recommend the design and development of the drug benefit, establish prospective and retrospective drug use review, and develop educational interventions.

The bill would establish a Medicare Outpatient Prescription Drug Trust Fund for the demonstrations. Up to \$200 million would be available for the demonstrations for fiscal years 1993 through 1997 (adjusted annually for cost-of-living increases). The funding would come from the reduction in the Puerto Rico tax credit.

S. 2000 would also establish a Prescription Drug Policy Review Commission, appointed by the Director of the Congressional Office of Technology Assessment, to make annual reports on national and international drug issues, and to make a special report on the implementation of a price review mechanism and possible changes to U.S. patent law.

Lastly, the bill would require the Secretary to report on Federal subsidies and incentives provided to the pharmaceutical industry and would require pharmaceutical manufacturers under the Medicaid Program to report average price of products sold in Canada, Australia and the European Economic Community.

Our concerns are multiple. First, with regard to the bill's effects on Puerto Rico, we believe that tampering with the current tax credit will result in higher pharmaceutical prices should the reduced attractiveness of production in Puerto Rico cause pharmaceutical manufacturers to move their facilities elsewhere. Not only would consumer prices be increased, but the movement of manufacturers from Puerto Rico to foreign countries or the mainland would result in decreased employment and revenues in Puerto Rico. We cannot estimate the magnitude of this adverse impact on Puerto Rico but believe it would be substantial. It would also jeopardize the benefits of Puerto Rico not directly affected if increased welfare, Medicaid, and other costs resulted. The Committee should obtain estimates of the magnitude of this potential loss to Puerto Rico before considering such a potentially disruptive and serious action.

Second, the mechanism for identifying firms which would be at risk of reduced tax credit for production in Puerto Rico strikes fundamentally at the exercise of the free market and pricing. The bill penalizes manufacturers for any drug product whose sale price increased faster than the consumer price index. This makes no allowance for changes in supply and demand for raw or finished products. Moreover, to escape the tax penalty proposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the consumer price index. We believe these incentives are perverse, unintended, and undesirable.

Third, with regard to demonstrations of a Medicare drug benefit, we note that much of the information to be provided through the proposed demonstrations is already available and that the demonstrations themselves appear to be a back door effort to establish a Medicare drug benefit. Such a benefit was a key component in the Medicare Catastrophic Coverage Act of 1988, which Congress, under substantial pressure from putative beneficiaries, repealed. In addition, the dem-

onstrations would be burdensome to administer and at best, marginally useful. There are other sources from which we can obtain desired information. For example, millions of beneficiaries receive drug benefits through various Medigap plans. In addition, drug utilization review programs currently exist in Medicaid and in various private plans. It would be possible to study the impact of coverage through these vehicles.

Fourth, the amount of funds available for the demonstrations is dependent on the extent to which increases in prescription drug prices exceed the consumer price index. Depending on how drug manufacturers respond to the tax disincentives, funding for the demonstrations could fluctuate greatly from year to year or may not be available at all. This uncertainty could disrupt Medicare benefits and jeopardize the research objectives of the demonstrations.

Fifth, the bill directs us to perform a study of Federal subsidies and incentives to the pharmaceutical industry. This study would cover a wide range of economic effects of tax, patent, and other policies, both domestically and abroad. This Department has no particular expertise either in the marketing and pricing of pharmaceutical products or in the economic analysis of private industry. Such a study, to the extent possible at all, would be far more appropriately lodged in the Federal Trade Commission or other agencies with the requisite skills and expertise in industrial economic analysis.

Finally, the bill authorizes the Review Commission to study and suggest how the United States might implement a pharmaceutical price review mechanism and provide incentives for U.S. companies to price their patented products "fairly" through possible grant of compulsory licenses on patents or limiting the period of market exclusivity. The suggestions would significantly weaken the U.S. patent system; be contrary to Congressionally mandated bilateral and multilateral negotiating objectives in the area of intellectual property protection; and negate previous congressional action that provided patent term restoration for some pharmaceutical products and increased market exclusivity to encourage research and development of orphan drugs. Provisions permitting grant of compulsory licenses would be copied by our trading partners and could be implemented in a manner that harms U.S. trade interests.

S. 2000 affects revenues; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary scoring estimates of this bill are under development.

In conclusion, if this bill were sent to the President for his approval, I would have to recommend that he veto it.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.

THE U.S. TRADE REPRESENTATIVE,  
EXECUTIVE OFFICE OF THE PRESIDENT,  
Washington, DC, March 9, 1992.

Hon. BOB PACKWOOD,  
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: Thank you for your letter of March 6, 1992, regarding a proposal in S. 2000 for a commission to study the use of compulsory licensing of patents as a way to contain the prices of pharmaceutical products. The Administration's longstanding position has been to negotiate

international agreements establishing a minimum 20-year patent term and eliminating any discriminatory compulsory licensing rules. For example, Canada has compulsory licensing rules that are far less favorable for pharmaceutical inventions than other inventions. For years, we have sought to eliminate this discrimination because it precludes U.S. holders of pharmaceutical patents from reaping the full rewards of their innovation.

I share your concern that the compulsory licensing study in sec. 6(d)(2)(D) of S. 2000 could be contrary to our trade policy and undermine our trade negotiating objectives. For example, the "Dunkel text" of the intellectual property agreement in the Uruguay Round both establishes a minimum 20-year patent term and prohibits discrimination based on the field of technology with respect to the enjoyment of patent rights. While not yet agreed, as you know, the Dunkel text would prohibit precisely the type of discriminatory compulsory licensing system that S. 2000 would require be studied.

Therefore, sec. 6(d)(2)(D) has the potential to lead to U.S. actions that could undermine our trade negotiating objectives. More immediately, it could be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States. For these reasons, I believe that the provision should be dropped from S. 2000, or at least that its specific reference to compulsory licensing, as well as the shortening of the period of market exclusivity, be deleted. Perhaps some studies may be innocuous, but this particular study could be quite counterproductive to longstanding trade objectives, toward which we have made substantial recent progress.

Sincerely,

CARLA A. HILLS.

COMMONWEALTH OF PUERTO RICO,  
OFFICE OF THE GOVERNOR,  
San Juan, PR, March 9, 1992.

Hon. DAVID PRYOR,  
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On March 2, Congressman Antonio J. Colorado, then our Secretary of State, wrote to you to express his views on S. 2000, the "Prescription Drug Cost Containment Act of 1991." As Governor of the Commonwealth of Puerto Rico, I would like to state clearly our Government's position on that bill.

As Congressman Colorado indicated, the U.S. citizens of Puerto Rico share your concern about the rising costs of health care. As you know, we have very limited participation in the Medicaid program and receive lower reimbursement rates under the Medicare program. Furthermore, our per capita income is half of that of the poorest state of the Union while medical costs follow closely that of the States. Our need for affordable health care is therefore of primary concern to all Puerto Rican citizens.

Nevertheless, we strongly object to the intrusive approach embodied in S. 2000. In an effort to control the price of drugs, S. 2000 puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of its most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustenance of the Commonwealth's economic development.

Over the past 40 years, Section 938 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more

than 17 percent. Using the 938 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations abroad, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens.

The pharmaceutical industry has made a special contribution to Puerto Rico's human and economic development. Not only has the industry invested heavily in plant and equipment, but it has employed, trained and promoted to the highest ranks of management over 20,000 of our citizens. The industry has played a significant role in the consolidation of a stable middle-class in Puerto Rico providing its employees with the highest wage and benefit compensation available in our manufacturing community. Likewise, this industry has stimulated the growth of our locally-owned businesses, by leading the way in purchase of goods and services from local suppliers, with a high multiplier affect on additional jobs all over the island.

Puerto Rico has not been the only beneficiary of the Section 938 relationship with the pharmaceutical industry, the U.S. mainland has benefited as well. The pharmaceutical industry is currently responsible for the largest share of Puerto Rico's exports outside the mainland, making an important contribution to the United States' balance of payments. In addition, revenues that are repatriated to the U.S. have enhanced the research and development capabilities and thus the international competitiveness of U.S. pharmaceuticals.

We believe that S. 2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that rather than instituting a penalty mechanism over one segment of the health industry, any policy option should address the root causes of the overall health care system.

Cordially,

RAFAEL HERNÁNDEZ COLÓN.

NATIONAL URBAN LEAGUE, INC.,  
New York, NY, February 20, 1992.

Hon. DAVID PRYOR,  
Chairman, Senate Special Committee on Aging,  
U.S. Senate, Washington, DC

DEAR SENATOR PRYOR: After a careful analysis and review, the National Urban League cannot support the Prescription Drug Cost Containment Act of 1991 (S. 2000). Given that African Americans already suffer from tremendous disparities in health status, health care coverage, and access, we find that S. 2000 would further exacerbate an already intolerable health situation for those of our constituency.

For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups.

We agree that something must be done to guarantee the poor access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

The National Urban League looks forward to working with you and your staff to develop other alternatives and proposals to S. 2000.

Sincerely,

ROBERT MCALPINE,  
DIRECTOR, POLICY AND GOVERNMENT  
Relations.

U.S. CHAMBER OF COMMERCE,  
LEGISLATIVE AND PUBLIC AFFAIRS,  
Washington, DC, March 6, 1992.

MEMBERS OF THE UNITED STATES SENATE:

Senator David Pryor plans to offer S. 2000, the Prescription Drug Cost Containment Act of 1991, as an amendment to the economic growth legislation approved by the Senate Finance Committee. Senator Pryor's proposal would reduce tax credits, currently available under Section 936 of the Internal Revenue Code, for pharmaceutical drug companies that raise prices at a rate faster than the increase in the Consumer Price Index (CPI). The U.S. Chamber of Commerce believes Section 936, since its inception in the late 1940s, has functioned successfully for the national economy, consumers, and the economy of Puerto Rico. Further, we believe Senator Pryor's proposed amendment would amount to *de facto* price controls on pharmaceuticals.

One of the few issues economists can agree upon in public policy is the negative effects price controls have on the production and supply of any good. If prices are mandated at a level below what the market would allow, the inevitable result is a shortage in supply. While the long, price-control-induced gasoline lines of the 1970s were certainly costly in economic terms, shortages of pharmaceutical drugs could be deadly.

Members of Congress concerned about the costs associated with discovering, producing, and purchasing pharmaceutical drugs will provide a genuine public service by focusing on the reformation of government policies which drive up companies' costs of production, particularly the Food and Drug Administration's approval process. As it now exists, this process is overly costly and needlessly time-consuming, substantially raising business cost and stifling new research and discoveries.

The Chamber strongly urges you to reject any attempt to attach the Pryor pharmaceutical price-control proposal as an amendment to economic growth legislation.

Sincerely,

DONALD J. KROES.

NATIONAL COALITION OF HISPANIC  
HEALTH  
AND HUMAN SERVICES ORGANIZATIONS,  
Washington, DC, November 6, 1991.

Hon. DAVID PRYOR,  
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Coalition of Hispanic Health and Human Services Organizations (COSSMHO), I would like to express our opposition to any proposal to reduce tax credits for pharmaceutical companies under Section 936 of the IRS Code. The idea of penalizing "936" pharmaceutical companies whose price increases exceed increases in the Consumer Price Index (CPI) is bad public policy. The proposal misses the mark by effectively focusing sanctions against the people of Puerto Rico.

By penalizing "936" pharmaceutical companies, this proposal will harm the economy of Puerto Rico by removing the incentive pharmaceutical companies have for operating on the island. Rather than encourage

pharmaceutical companies to reduce prices, the effect will likely be that these companies will relocate their operations, effectively countering the public policy goals set by Section 936 to encourage economic development in Puerto Rico. Furthermore, the basis of the proposal, that the pharmaceutical industry is gouging the marketplace, has not been effectively demonstrated.

I strongly encourage you to reconsider using sanctions against "936" pharmaceutical companies as a means of addressing the rate of cost increase for pharmaceuticals.

Sincerely,

JANE L. DELGADO, PH.D.

THE NATIONAL BLACK CAUCUS  
OF STATE LEGISLATORS,  
Washington, DC, February 3, 1992.

Hon. JOHN D. DINGELL,  
House of Representatives, Rayburn House Office  
Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: As President of the National Black Caucus of State Legislators, an organization representing more than 450 African-American legislators from 42 states and the U.S. Virgin Islands, it is with a sense of urgency and responsibility to the millions of sick and disabled Americans that I write to urge your careful attention to S. 2000 "The Prescription Drug Cost Containment Act of 1991." I believe this legislation would harm, rather than help these people.

We have been very encouraged by the increased attention now being given to the status of health care in America. However, we are still very concerned that sufficient attention is not being given to the equally pressing issue of access to quality health care—particularly for disadvantaged and low-income citizens. The legislation proposed by Senator David Pryor while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

While Senator Pryor no doubt believes that S. 2000 would result in lower drug prices, there are other possible consequences that merit consideration. Those of us who must grapple with the interrelated problem of health-care costs and access to quality health care daily in our home states recognize the necessity for cost-saving measures. But we do not advocate proceeding at any cost. We think it reasonable to believe that pharmaceutical companies could very well respond to price controls by reducing investment in research and development. This would ultimately deny all patients the benefits of new medicines yet to be developed.

At a time when society is facing its greatest challenge in modern times—to find a cure and better treatment for AIDS, Alzheimer's, Cancer, Sickle Cell and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's health-care problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest.

Sincerely,

REGIS F. GROFF,  
Colorado Senator, President, NBCSL.

AMERICAN DIABETES ASSOCIATION,  
Alexandria, VA, December 17, 1991.

Hon. LLOYD BENTSEN,  
Hart Senate Office Building, Washington, DC.  
DEAR SENATOR BENTSEN: On behalf of the American Diabetes Association, I am writing

in response to recent Congressional proposals to reduce tax credits under Section 936 for certain pharmaceutical companies operating in Puerto Rico.

The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes.

We, at ADA, applaud your leadership in Congress in addressing our nation's health care crisis and hope you will consider the detrimental impact restrictions to section 936 may have on developing drugs for the truly needy.

Our thanks for your attention to this matter.

Sincerely,

JOHN H. GRAHAM IV.,  
Chief Executive Officer.

AMERICAN LEGISLATIVE  
EXCHANGE COUNCIL,  
Washington, DC, January 31, 1992.

Hon. STROM THURMOND,  
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: For many years, the members of the American Legislative Exchange Council have worked in the state legislatures to eliminate waste in government and excessive bureaucratic intrusion in the lives of the American people. As the state Medicaid programs are now the second-largest component of state budgets, we have a particular interest in strengthening preventive medicine and cost-effective early treatment therapies for Medicaid patients.

Through this involvement, we have become aware of the tremendous advances in medical progress which have been made possible by the research and development activities of United States pharmaceutical companies—\$10 billion annually, according to press accounts. At a time when international competitiveness is a pressing issue, the American pharmaceutical industry is truly the envy of the world.

S. 2000, sponsored by Senator David Pryor, now threatens this healthy industry and its medical breakthroughs at just the time when we believe Congress and the president should act to strengthen business activity. The "Prescription Drug Cost Containment Act of 1991" would link the drug companies' Section 936 tax credits with the Consumer Price Index (CPI). Other provisions in this bill would clearly lead us down the road to a command-economy system of direct price controls and violation of patents. This is not in the best interests of either American business or the millions of American patients who now wait and pray for cures and treatments to emerge from our laboratories.

By singling out one industry for a discriminatory tax, the bill would be inherently unfair and could well produce unintended and unwelcome results, including higher drug prices and fewer dollars dedicated to research and development. Price controls have never worked as intended in this country, and there is no reason to believe that imposing them now selectively on the pharmaceutical industry would be any different. S. 2000 would require creation of an intrusive new Washington bureaucracy and would interfere in free market economics at a time

when state-managed systems are being abandoned wholesale in other nations.

We are concerned about the lack of access to needed prescription medicines and other forms of medical care for millions of our constituents. We encourage Congress to work with the administration and with the insurers and medical care providers to provide affordable access. However, we believe that imposing punitive tax treatment on one of America's most beneficial and productive industries would be counter-productive to better patient care and economic growth.

Sincerely,

SAMUEL BRUNELLI,  
Executive Director.  
FRED NOYE,  
National Chairman.

RENE F. RODRIGUEZ, M.D., F.A.C.S.,  
Jackson Heights, NY, January 7, 1992.

Hon. DAVID H. PRYOR,  
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: I am a physician practicing in New York City. Most of my patients are Hispanic-Americans. The overwhelming majority are poor.

These are probably exactly the kind of people you meant to help by introducing a bill to control prescription drug prices. But, after careful reflection, I am convinced that poor Hispanic people will be hurt—not helped—by such legislation. Let me explain.

Because they are Hispanic, these people are, for illunderstood reasons, more likely to suffer from AIDS, cancer, depression, diabetes, hypertension and kidney disease than white Americans. And, because their education level is generally low, they are even more likely to be in poor health.

Therefore, these people—my patients—need medicines even more than most people. They need the drugs available today, and they need medicines we hope will be developed in the future.

Yes, high drug prices can be a problem. But that's a problem I can deal with. I can get patients without insurance into drug company giveaway programs. I can use samples, or I can get charities to subsidize them. But if there were no breakthrough drugs—if the flow of new drugs dried up—I could do nothing. My patients would end up in hospital emergency rooms, in institutions, or at the morgue.

Another aspect of your proposal also troubles me. That is the plan to take away tax credits from drug companies that set up plants in Puerto Rico. These tax credits have helped create jobs for Puerto Ricans; taking away these credits will create more unemployment. That may mean that more Puerto Ricans will come to New York and come to my office in need of medicines that may not be available.

NEW YORK STATE SENATE,  
Albany, NY, January 13, 1992.

Mr. VINCENT TESE,  
Commissioner, NYS Dept. of Economic Development, Albany, NY.

DEAR COMMISSIONER TESE: I am writing to alert you to a measure introduced in Congress by Senator Pryor (S. 2000), which I believe poses a number of serious threats to the economy of New York—particularly Long Island and New York City!

The measure, known as "The Prescription Drug Cost Containment Act of 1991" attempts to control pharmaceutical product costs through threatened reductions in Section 936 tax benefits—incentives, as you know, that were established to encourage corporate and industrial investment in Puer-

to Rico. These incentives were created and implemented in an effort to fuel a struggling island economy, and they remain crucial ingredients in the island's economic survival today. Their value and importance cannot be overstated. It is my belief that this measure, if passed, would devastate the Puerto Rican economy.

However, it would also send a series of dangerous shockwaves through our own economy here in New York.

Dilution, or elimination of the tax credit may very likely result in a substantial, if not total, loss of profit to the companies maintaining operations in Puerto Rico. Loss or reduction of these incentives could result in plant closings and massive layoffs on the island. Since a number of pharmaceutical companies maintain operations in New York, it is logical to anticipate similar effects here.

Further, this measure is discriminatory in nature. It unfairly singles out the drug industry in Puerto Rico, one of the stronger economic forces in both New York, and on the island.

In the midst of a recession which has claimed millions of jobs, I find it difficult to support a proposal which attempts to penalize one of New York's strongest industries, and one of significant stature on Long Island, and, again, New York City.

In light of New York's current economic plight, and the governor's recent State of the State message in which he clearly called for a renewed effort to revitalize our state's economy, I respectfully request that you review the effects of Senator Pryor's proposal, taking into account the fiscal impact a loss or reduction of tax credits would have on New York pharmaceutical companies—and on the communities in which these companies are based. Again, I stress the potential impact on Long Island and New York City.

By eliminating these tax incentives, we are adding to the inability of our domestic companies to compete on an international field. Our state's economy, reflective of a greater problem of national scope, faces eminent danger when American based entities are forced to scale back operations or manpower while foreign competitors continue to thrive. I am confident you will agree that this measure, while having no effect on Senator Pryor's home state, may pose serious threats to the economy of New York.

It is, further, my understanding that Senator Pryor will be attempting to move on this legislation in the very near future. Therefore, your voice, and that of your office are desperately needed to help stop passage of this bill.

I would, as well, request from your office, a written evaluation of S. 2000's potential effects on New York, and an indication of your standing on this matter.

I am enclosing copies of S. 2000 for your review, and stand ready to further discuss this matter with you at your earliest convenience. If you have any questions, please feel free to contact me, or my Chief of Staff, Michael Diamond at any time.

I look forward to hearing from you.

Sincerely,

SENATOR EFRAIN GONZALEZ, JR.,  
Member, NYS Senate.

HISPANIC POLICY  
DEVELOPMENT PROJECT,  
New York, NY, November 10, 1991.

HON. DAVID PRYOR,  
U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR PRYOR: I would like to bring to your attention how Section 936 tax credits

have benefited the U.S. citizens of Puerto Rico by providing support for an already weakened economy. Puerto Rico was at one time a showcase for capitalistic development but the rose picture exemplified by the boot-strap boom has changed significantly. In these harsher times the 936 incentive for doing business on the island offers a modicum of crucial stability to a society that must provide over sixty percent of its families with food stamps because there are no jobs.

It is not clear that the elimination of 936 will achieve your goals. It may very well further damage the future health of the Puerto Rican American citizens who strive to survive and prosper on the Island of Puerto Rico.

Sincerely,

SIQBHAN NICOLAU,  
President.

LATINO ISSUES FORUM,  
San Francisco, CA, November 11, 1991.

HON. DAVID PRYOR,  
U.S. Senator, Washington, DC.

DEAR SENATOR PRYOR: As you may know, the Latino community is disproportionately suffering from the AIDS epidemic. Your proposed legislation reducing tax credits for pharmaceutical companies could have a disparate impact on Latinos. The net effect of your proposal would discourage or at the least limit research for an AIDS cure at a most critical time. We therefore respectfully request you reconsider this proposal.

Sincerely,

JOHN C. GAMBOA,  
Executive Director.

Mr. HATCH. These letters represent the viewpoints of the Department of Health and Human Services, the U.S. Trade Representative, the Governor of Puerto Rico, the National Black Caucus of State Legislators, the National Urban League, the National Coalition of Hispanic Health and Human Services Organizations, the United States Chamber of Commerce, the American Diabetes Association, and others.

I cannot help but notice the diversity of these various groups and the breadth of opposition to the Senator from Arkansas' amendment.

Let me quote from a couple of these letters, because they sum up the many reasons for opposing this amendment.

The National Urban League:

For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, and so forth. But for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost-effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups. We agree that something must be done to guarantee that the poor have access to lifesaving drugs that do get developed. But if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

The National Black Caucus of State Legislators says:

At a time when society is facing its greatest challenges in modern times—to find a

cure and better treatment for AIDS, Alzheimer's, cancer, Sickle Cell, and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's health care problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest.

Let me read from the American Diabetes Association letter:

The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our Nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes.

In short, Mr. President, there is not a person in this Chamber who would argue with the Senator's overall objective, which is to make health care more accessible to more Americans. I do not think anybody argues with that objective. Our difference is on the wisdom of price regulation. We differ on the idea that price controls will solve the problem without ultimately hurting patients in the long run.

We need the drug companies to continue their high level of investment in research and development. We need the new treatments for the myriad of diseases that still abound all over the world. Moreover, we need to keep this industry competitive internationally.

Let us look at the proposal critically. After it is fully considered, we have to conclude that we could do more harm than good for Americans—those who use pharmaceuticals, which is nearly all of us, and those of us who work in that industry.

So I urge the Senate to reject this amendment. I think it is critical for our society at this time.

Mr. President, I am pleased to interrupt my remarks to yield a minute to the distinguished Senator from Idaho.

Mr. SYMMS. Mr. President, I thank my colleague from Utah for yielding me 1 minute. I was here earlier today and had remarks I wished to address the Senate with and was called away from the floor.

I thank Senator HATCH for his very insightful remarks he has made throughout the day, and I thank Senators COATS, BRADLEY, and LIEBERMAN for the letter and addendum they gave all of us.

I ask unanimous consent, Mr. President, that the "Dear Colleague" letter from Senators HATCH, COATS, BRADLEY, and LIEBERMAN, along with some letters, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC, March 11, 1992.

DEAR COLLEAGUE: As the Senate considers H.R. 4210 this morning, Senator Pryor will

offer the text of S. 2000 as an amendment. We strongly oppose this amendment. We have outlined briefly our reasons for opposing S. 2000, concerns we believe you should share.

In the Senate, we are just beginning to start the debate about how to approach health care reform. Each of the major reform from bills already introduced contain their own recommendation for cost containment. Senator Pryor proposes cost containment for only one part of that system—for prescription drugs. His approach would have us move toward a Canadian model for this one segment. However, we have not had the opportunity to weigh the advantages or disadvantages of these proposals; that process has hardly begun. To propose a solution for just one sector of the health economy, that concludes limits on prices is the answer, is highly premature.

The United States research-based pharmaceutical industry leads the world in developing and distributing drug products to patients suffering from illness and disease. We are entering a new era in which a virtual revolution in our understanding of human biology will occur. The private sector, which has always played an important role in technology transfer, will be expected to shoulder a critical responsibility in bringing scientific breakthroughs from the laboratory to the bedside of sick patients.

Under the current incentive structure, American drug firms are today able to make the necessary costly investments (nearly \$11 billion this year) in the research and development needed to ensure tomorrow's discoveries. We must be mindful of taking actions, however well-intentioned, that will seriously disrupt the long-term ability of this important industry to discover and to develop new medications for patients.

Senator Pryor is concerned with increasing drug prices, a concern that many of us share. The Senator deserves credit for spotlighting the increases during the 1980s and for urging, successfully, the industry to moderate its price increases. The Bureau of Labor Statistics (BLS) last reported that the drug price increases in 1991 were at their lowest point since the BLS started collecting data on this subject in 1981.

S. 2000 would essentially set government controls of pharmaceutical manufacturers' prices. It would accomplish this by denying the incentives in existing tax law designed to encourage manufacturing in Puerto Rico to American companies who raised one or more of their prices above the consumer price index. These incentives have been of great benefit to our American citizens in Puerto Rico. Curiously, since these tax incentives are available only to U.S. corporations, S. 2000 would have virtually no effect on European and Japanese drug company pricing practices.

S. 2000 would also create a new government body: a commission to study further government price controls, such as Canadian-style controls on pharmaceutical pricing that we are actively seeking to have the Canadian government rescind through our trade negotiations.

Others have considered S. 2000 carefully. The following views bear special attention in our opinion.

"We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would re-

quire us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it."—HHS Secretary Louis Sullivan.

"I share your concern that the compulsory licensing study in sec. 6(d)(2)(D) of S. 2000 could be contrary to our trade policy and undermine our trade negotiating objectives. . . . Therefore, sec. 6(d)(2)(D) has the potential to lead to U.S. actions that could undermine our trade negotiating objectives. More immediately, it could be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States."—United States Trade Representative Carla Hills.

"Over the past 40 years, Section 936 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more than 17 percent. Using the 936 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations abroad, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens \* \* \*. We believe that S. 2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that, rather than instituting a penalty mechanism over one segment of the health industry, and policy option should address the root causes of the overall health care system."—Governor Rafael Hernandez Colon, Commonwealth of Puerto Rico.

"For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups. We agree that something must be done to guarantee that the poor have access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue."—National Urban League.

"Senator Pryor's proposed amendment would amount to de facto price controls on pharmaceuticals. One of the few issues economists can agree upon in public policy is the negative effects price controls have on the production and supply of any good."—U.S. Chamber of Commerce.

"The idea of penalizing '936' pharmaceutical companies whose price increases exceed increases in the Consumer Price Index (CPI) is bad public policy. The proposal misses the mark by effectively focusing sanctions against the people of Puerto Rico. By penalizing '936' pharmaceutical companies, this proposal will harm the economy of Puerto Rico by removing the incentive pharmaceutical companies have for operating on the island."—National Coalition of Hispanic Health and Human Services Organizations.

"At a time when society is facing its greatest challenges in modern times—to find a cure and better treatment for AIDS, Alz-

heimer's, cancer, Sickle Cell and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's healthcare problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest."—National Black Caucus of State Legislators.

"The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes."—American Diabetes Association.

We have included the full text of these thoughtful statements as attachments. We ask that you review them as you consider your position on S. 2000. We believe that after careful examination of this issue you will join us in opposing S. 2000.

ORRIN HATCH.  
DAN COATS.  
BILL BRADLEY.  
JOSEPH I. LIEBERMAN.

THE SECRETARY OF HEALTH  
AND HUMAN SERVICES,  
Washington, DC, March 6, 1992.

Hon. LLOYD BENTSEN,  
Chairman, Committee on Finance,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2000, a bill "To provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes."

We believe S. 2000 could increase drug prices and harm the economy of Puerto Rico, would inappropriately affect tax incentives, would require unnecessary Medicare demonstrations, could weaken the U.S. patent system and impair the attainment of Congressionally mandated intellectual property objectives in other countries, and would require us to perform a study outside the range of this Department's expertise. Consequently, if S. 2000 were presented to the President, I would recommend that he veto it.

S. 2000 would reduce the tax credit available to drug manufacturers operating in Puerto Rico, to the extent that increases in prescription drug prices exceed the consumer price index.

By October 1, 1992, the Secretary of Health and Human Services would have to establish at least 15 demonstration projects that would last 5 fiscal years to assess the impact on cost, quality of care, and access to prescription drugs of developing a Medicare outpatient prescription drug benefit and the impact on cost and quality of care of extending coverage of outpatient prescription drugs to Medicare beneficiaries served by community health centers. The demonstrations would provide coverage to all drugs and biologicals approved by the Food and Drug Administra-

tion and all medically accepted indications listed in the three national drug compendia. There would be a Drug Use Review Board that would recommend the design and development of the drug benefit, establish prospective and retrospective drug use review, and develop educational interventions.

The bill would establish a Medicare Outpatient Prescription Drug Trust Fund for the demonstrations. Up to \$200 million would be available for the demonstrations for fiscal years 1993 through 1997 (adjusted annually for cost-of-living increases). The funding would come from the reduction in the Puerto Rico tax credit.

S. 2000 would also establish a Prescription Drug Policy Review Commission, appointed by the Director of the Congressional Office of Technology Assessment, to make annual reports on national and international drug issues, and to make a special report on the implementation of a price review mechanism and possible changes to U.S. patent law.

Lastly, the bill would require the Secretary to report on Federal subsidies and incentives provided to the pharmaceutical industry and would require pharmaceutical manufacturers under the Medicaid Program to report average price of products sold in Canada, Australia and the European Economic Community.

Our concerns are multiple. First, with regard to the bill's effects on Puerto Rico, we believe that tampering with the current tax credit will result in higher pharmaceutical prices should the reduced attractiveness of production in Puerto Rico cause pharmaceutical manufacturers to move their facilities elsewhere. Not only would consumer prices be increased, but the movement of manufacturers from Puerto Rico to foreign countries or the mainland would result in decreased employment and revenues in Puerto Rico. We cannot estimate the magnitude of this adverse impact on Puerto Rico but believe it would be substantial. It would also jeopardize the benefits of Puerto Ricans not directly affected if increased welfare, Medicaid, and other costs resulted. The Committee should obtain estimates of the magnitude of this potential loss to Puerto Rico before considering such a potentially disruptive and serious action.

Second, the mechanism for identifying firms which would be at risk of reduced tax credit for production in Puerto Rico strikes fundamentally at the exercise of the free market and pricing. The bill penalizes manufacturers for any drug product whose sale price increases faster than the consumer price index. This makes no allowance for changes in supply and demand for raw or finished products. Moreover, to escape the tax penalty proposed in S. 2000, manufacturers would have substantial incentives to introduce new products at the highest possible price in order to show subsequent reductions in pricing consistent with the consumer price index. We believe these incentives are perverse, unintended, and undesirable.

Third, with regard to demonstrations of a Medicare drug benefit, we note that much of the information to be provided through the proposed demonstrations is already available and that the demonstrations themselves appear to be a back door effort to establish a Medicare drug benefit. Such a benefit was a key component in the Medicare Catastrophic Coverage Act of 1988, which Congress, under substantial pressure from putative beneficiaries, repealed. In addition, the demonstrations would be burdensome to administer and at best, marginally useful. There are other sources from which we can obtain

desired information. For example, millions of beneficiaries receive drug benefits through various Medicaid plans. In addition, drug utilization review programs currently exist in Medicaid and in various private plans. It would be possible to study the impact of coverage through these vehicles.

Fourth, the amount of funds available for the demonstrations is dependent on the extent to which increases in prescription drug prices exceed the consumer price index. Depending on how drug manufacturers respond to the tax disincentives, funding for the demonstrations could fluctuate greatly from year to year or may not be available at all. This uncertainty could disrupt Medicare benefits and jeopardize the research objectives of the demonstrations.

Fifth, the bill directs us to perform a study of Federal subsidies and incentives to the pharmaceutical industry. This study would cover a wide range of economic effects of tax, patent, and other policies, both domestically and abroad. This Department has no particular expertise either in the marketing and pricing of pharmaceutical products or in the economic analysis of private industry. Such a study, to the extent possible at all, would be far more appropriately lodged in the Federal Trade Commission or other agencies with the requisite skills and expertise in industrial economic analysis.

Finally, the bill authorizes the Review Commission to study and suggest how the United States might implement a pharmaceutical price review mechanism and provide incentives for U.S. companies to price their patented products "fairly" through possible grant of compulsory licenses on patents or limiting the period of market exclusivity. The suggestions would significantly weaken the U.S. patent system; be contrary to Congressionally mandated bilateral and multilateral negotiating objectives in the area of intellectual property protection; and negate previous congressional action that provided patent term restoration for some pharmaceutical products and increased market exclusivity to encourage research and development of orphan drugs. Provisions permitting grant of compulsory licenses would be copied by our trading partners and could be implemented in a manner that harms U.S. trade interests.

S. 2000 affects revenues; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary scoring estimates of this bill are under development.

In conclusion, if this bill were sent to the President for his approval, I would have to recommend that he veto it.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.

THE U.S. TRADE REPRESENTATIVE,  
EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, DC, March 9, 1992.

Hon. BOB PACKWOOD,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR PACKWOOD: Thank you for your letter of March 6, 1992, regarding a proposal in S. 2000 for a commission to study the use of compulsory licensing of patents as a way to contain the prices of pharmaceutical products. The Administration's longstanding position has been to negotiate international agreements establishing a

minimum 20-year patent term and eliminating any discriminatory compulsory licensing rules. For example, Canada has compulsory licensing rules that are far less favorable for pharmaceutical inventions than other inventions. For years, we have sought to eliminate this discrimination because it precludes U.S. holders of pharmaceutical patents from reaping the full rewards of their innovation.

I share your concern that the compulsory licensing study in sec. 6(d)(2)(D) of S. 2000 could be contrary to our trade policy and undermine our trade negotiating objectives. For example, the "Dunkel text" of the intellectual property agreement in the Uruguay Round both establishes a minimum 20-year patent term and prohibits discrimination based on the field of technology with respect to the enjoyment of patent rights. While not yet agreed, as you know, the Dunkel text would prohibit precisely the type of discriminatory compulsory licensing system that S. 2000 would require be studied.

Therefore, sec. 6(d)(2)(D) has the potential to lead to U.S. actions that could undermine our trade negotiating objectives. More immediately, it could be used as ammunition by foreign governments and foreign private parties opposing the patent reforms sought so vigorously and long by the United States. For these reasons, I believe that the provision should be dropped from S. 2000, or at least that its specific reference to compulsory licensing, as well as the shortening of the period of market exclusivity, be deleted. Perhaps some studies may be innocuous, but this particular study could be quite counterproductive to longstanding trade objectives, toward which we have made substantial recent progress.

Sincerely,

CARLA A. HILLS.

COMMONWEALTH OF PUERTO RICO,  
OFFICE OF THE GOVERNOR,  
San Juan, PR, March 9, 1992.

Hon. DAVID PRYOR,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR PRYOR: On March 2, Congressman Antonio J. Colorado, then our Secretary of State, wrote to you to express his views on S. 2000, the "Prescription Drug Cost Containment Act of 1991." As Governor of the Commonwealth of Puerto Rico, I would like to state clearly our Government's position on that bill.

As Congressman Colorado indicated, the U.S. citizens of Puerto Rico share your concern about the rising costs of health care. As you know, we have very limited participation in the Medicaid program and receive lower reimbursement rates under the Medicare program. Furthermore, our per capita income is half of that of the poorest state of the Union while medical costs follow closely that of the States. Our need for affordable health care is therefore of primary concern to all Puerto Rican citizens.

Nevertheless, we strongly object to the intrusive approach embodied in S.2000. In an effort to control the price of drugs, S.2000 puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of the most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustenance of the Commonwealth's economic development.

Over the past 40 years, Section 936 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more

than 17 percent. Using the 936 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations abroad, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens.

The pharmaceutical industry has made a special contribution to Puerto Rico's human and economic development. Not only has the industry invested heavily in plant and equipment, but it has employed, trained, and promoted to the highest ranks of management over 20,000 of our citizens. The industry has played a significant role in the consolidation of a stable middle-class in Puerto Rico, providing its employees with the highest wage and benefit compensation available in our manufacturing community. Likewise, this industry has stimulated the growth of our locality-owned businesses, by leading the way in purchases of goods and services from local suppliers, with a high multiplier effect on additional jobs all over the island.

Puerto Rico has not been the only beneficiary of the Section 936 relationship with the pharmaceutical industry the U.S. mainland has benefited as well. The pharmaceutical industry is currently responsible for the largest share of Puerto Rico's exports outside the mainland, making an important contribution to the United States' balance of payments. In addition, revenues that are repatriated to the U.S. have enhanced the research and development capabilities and thus the international competitiveness of U.S. pharmaceuticals.

We believe that S.2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that, rather than instituting a penalty mechanism over one segment of the health industry, any policy option should address the root causes of the overall health care system.

Cordially,

RAFAEL HEMANGEZ COLON.

NATIONAL URBAN LEAGUE, INC.,  
New York, NY, February 20, 1992.

The Hon. DAVID PRYOR,  
Chairman, Senate Special Committee on Aging,  
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: After a careful analysis and review, the National Urban League cannot support the Prescription Drug Cost Containment Act of 1991 (S. 2000). Given that African Americans already suffer from tremendous disparities in health status, health care coverage, and access, we find that S. 2000 would further exacerbate an already intolerable health situation for those of our constituency.

For various reasons, poor people, uneducated people, and minorities get sick more often and die younger than others. This sad fact of life can be dealt with in various ways—through "lifestyle" education, social programs, etc. But, for the foreseeable future, these groups will simply need more medical interventions than others. And one of the best—and most cost effective—forms of medical intervention lies in prescription medicines. Therefore, measures that discourage the development of medicines are not in the best interest of America's poor and minority groups.

We agree that something must be done to guarantee the poor access to life-saving drugs that do get developed. But, if the medicines are never developed because of lack of incentives, this will be purely an academic issue.

The National Urban League looks forward to working with you and your staff to develop other alternatives and proposals to S. 2000.

Sincerely,

ROBERT MCALPINE,  
Director, Policy and Government Relations.

U.S. CHAMBER OF COMMERCE,  
LEGISLATIVE AND PUBLIC AFFAIRS,  
Washington, DC, March 6, 1992.

Members of the United States Senate:

Senator David Pryor plans to offer S. 2000, the Prescription Drug Cost Containment Act of 1991, as an amendment to the economic growth legislation approved by the Senate Finance Committee. Senator Pryor's proposal would reduce tax credits, currently available under Section 936 of the Internal Revenue Code, for pharmaceutical drug companies that raise prices at a rate faster than the increase in the Consumer Price Index (CPI). The U.S. Chamber of Commerce believes Section 936, since its inception in the late 1940s, has functioned successfully for the national economy, consumers, and the economy of Puerto Rico. Further, we believe Senator Pryor's proposed amendment would amount to de facto price controls on pharmaceuticals.

One of the few issues economists can agree upon in public policy is the negative effects price controls have on the production and supply of any good. If prices are mandated at a level below what the market would allow, the inevitable result is a shortage in supply. While the long, price-control-induced gasoline lines of the 1970s were certainly costly in economic terms, shortages of pharmaceutical drugs could be deadly.

Members of Congress concerned about the costs associated with discovering, producing and purchasing pharmaceutical drugs will provide a genuine public service by focusing on the reformation of government policies which drive up companies' costs of production, particularly the Food and Drug Administration's approval process. As it now exists, this process is overly costly and needlessly time-consuming, substantially raising business costs and stifling new research and discoveries.

The Chamber strongly urges you to reject any attempt to attach the Pryor pharmaceutical price-control proposal as an amendment to economic growth legislation.

Sincerely,

DONALD J. KROES.

NATIONAL COALITION OF HISPANIC  
HEALTH AND HUMAN SERVICES ORGANIZATIONS,  
Washington, DC, November 6, 1991.

Hon. DAVID PRYOR,  
U.S. Senate, Senate Russell Building, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Coalition of Hispanic Health and Human Services Organizations (COSSMHO), I would like to express our opposition to any proposal to reduce tax credits for pharmaceutical companies under Section 936 of the IRS Code. The idea of penalizing "936" pharmaceutical companies whose price increases exceed increases in the Consumer Price Index (CPI) is bad public policy. The proposal misses the mark by effectively focusing sanctions against the people of Puerto Rico.

By penalizing "936" pharmaceutical companies, this proposal will harm the economy of Puerto Rico by removing the incentive pharmaceutical companies have for operat-

ing on the island. Rather than encourage pharmaceutical companies to reduce prices, the effect will likely be that these companies will relocate their operations, effectively countering the public policy goals set by Section 936 to encourage economic development in Puerto Rico. Furthermore, the basis of the proposal, that the pharmaceutical industry is gouging the marketplace, has not been effectively demonstrated.

I strongly encourage you to reconsider using sanctions against "936" pharmaceutical companies as a means of addressing the rate of cost increase for pharmaceuticals.

Sincerely,

JANE L. DELGADO, PH.D.

THE NATIONAL BLACK CAUCUS  
OF STATE LEGISLATORS,  
February 3, 1992.

The Hon. JOHN D. DINGELL,  
U.S. House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN DINGELL: As President of the National Black Caucus of State Legislators, an organization representing more than 450 African-American legislators from 42 states and the U.S. Virgin Islands, it is with a sense of urgency and responsibility to the millions of sick and disabled Americans that I write to urge your careful attention to S. 2000 "The Prescription Drug Cost Containment Act of 1991." I believe this legislation would harm, rather than help these people.

We have been very encouraged by the increased attention now being given to the status of health care in America. However, we are still very concerned that sufficient attention is not being given to the equally pressing issue of access to quality health care—particularly for disadvantaged and low-income citizens. The legislation proposed by Senator David Pryor while intended to control pharmaceutical prices, is a prime example of the opposing forces at work in the national fight to make health care affordable without compromising the right of every American to the best health care available.

While Senator Pryor no doubt believes that S. 2000 would result in lower drug prices, there are other possible consequences that merit consideration. Those of us who must grapple with the interrelated problem of health-care costs and access to quality health care daily in our home states recognize the necessity for cost-saving measures. But we do not advocate proceeding at any cost. We think it reasonable to believe that pharmaceutical companies could very well respond to price controls by reducing investment in research and development. This would ultimately deny all patients the benefits of new medicines yet to be developed.

At a time when society is facing its greatest challenge in modern times—to find a cure and better treatment for AIDS, Alzheimer's, cancer, Sickle Cell and other diseases—we must be deliberate in our evaluation and development of remedies. We urge you not to embrace simplistic solutions to America's health-care problems. We trust a full review of this issue will lead you to conclude, with us, that S. 2000 is not in the best public interest.

Sincerely,

REGIS F. GROFF,  
Colorado Senator, President, NBCSL.

AMERICAN DIABETES ASSOCIATION,  
NATIONAL CENTER,  
Alexandria, VA, December 17, 1991.

The Hon. LLOYD BENTSEN,  
Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR BENTSEN: On behalf of the American Diabetes Association, I am writing in response to recent Congressional proposals to reduce tax credits under Section 936 for certain pharmaceutical companies operating in Puerto Rico.

The American Diabetes Association believes that this proposal is ill-defined and potentially harmful to the development of drugs. Given the current crisis in our nation's health care system, we acknowledge the critical importance the Congress plays in scrutinizing how particular segments of our system operate. We believe these efforts are laudable and necessary; however, the proposal to reduce tax credits to certain companies may be destructive and limit the pharmaceutical industry's ability to discover new drugs for diseases such as diabetes.

We, at ADA, applaud your leadership in Congress in addressing our nation's health care crisis and hope you will consider the detrimental impact restrictions to Section 936 may have on developing drugs for the truly needy.

Our thanks for your attention to this matter.

Sincerely,

JOHN H. GRAHAM IV,  
Chief Executive Officer.

Mr. SYMMS. Mr. President, I rise in strong opposition to the amendment of the Senator from Arkansas. I understand his concerns with the pharmaceutical industry and the cost of health care, but the industry is not solely responsible for the health care crisis in the United States. This problem stems from numerous different factors, and I doubt this legislation will do anything to help the situation as I believe the sponsor intends.

In a nutshell, the result of this amendment would be to increase drug prices, harm the economy of Puerto Rico, negatively affect tax incentives, and weaken the United States patent system.

This amendment sets up a commission to study the feasibility of a Canadian-style price review board. This sounds interesting; there has been a lot of talk about Canada in general when people discuss health care.

Why do not we take a look at the pharmaceutical industry in Canada? Over the past two decades, research and development has resulted in only two new medicines. Two new drugs in 20 years. Compare this to the hundreds of new medicines which have become available in the United States over the same period. And Americans demand this. They demand research for cancer, Alzheimers, AIDS, diabetes, the list goes on and on. The type of price control mechanism in Canada is obviously a disincentive to medical progress. I realize the provision only requires a study, but we all know where this is heading. It might as well be part of the bill.

The legislation also reduces a manufacturer's section 936 tax credit for pro-

duction in Puerto Rico if its drug prices exceed the Consumer Price Index.

According to the Congressional Budget Office, limiting the section 936 tax credit for drug manufacturers in Puerto Rico would result in a decline in the gross national product of the Commonwealth and in the loss of enough jobs to almost double the unemployment rate. Is this our goal? Why do we want to eliminate jobs?

Further, the amendment creates a requirement in which compliance would be virtually impossible for any company. It will tie permissible price increases to a price index which is not available until long after decisions about price increases must be made.

Last week I received a letter, as did all my colleagues on the Senate Finance Committee, from the Secretary of State of Puerto Rico. The Secretary himself has serious concerns about the ramifications this legislation could have on the Commonwealth. I also have a letter from the Governor, indicating his grave concern about the impact of this amendment on Puerto Rico.

Mr. President, I would urge my colleagues to take a close look at this amendment and the impact it will have before offering their support. There is no doubt in my mind the amendment should be resoundingly defeated.

THE PRESIDING OFFICER. The Senator's 1 minute has expired.

The Senator from Utah is recognized.

Mr. HATCH. How much time do I have remaining?

THE PRESIDING OFFICER. The Senator from Utah has 9 minutes and 16 seconds.

Mr. HATCH. Mr. President, I would like to again show this particular chart. This is the scorecard that was put together by Fortune magazine showing the American industries which are competitive in the world today. There are two: forest products and pharmaceutical industries. One of them, forest products industry is rapidly going downhill. The other industry is rated A. By A, I mean an industry competing better than any other industries in the world.

Thus, the pharmaceutical industry is absolutely at the top. One reason it is at the top is because of the research and development and the high amount of funds put into research and development.

These grades measure United States competitiveness relative to Japan and Europe, our two major competitors. The scores reflect production data, company performance, and expert opinion. Now what bothers me is, if we pass the distinguished Senator's amendment, we will be putting the pharmaceutical industry down below the B's into the C's, and perhaps even the D's.

I believe this decline is inevitable because what we would be doing is put-

ting price controls on the industry that needs the incentives. The pharmaceutical industry puts a lot of money into research and development, and it is leading the world right now in drug development and manufacturing.

Just look at these sick industries in our country, they include industrial and farm equipment, motor vehicles, metals, and electronics. We used to lead the world in electronics, until we started to regulate it from Washington. With respect to motor vehicles, industrial farm equipment and metals, we have just about regulated them out of business. Our country is no longer as competitive with these industries as it should be.

Is that what we are going to do with the No. 1 industry in America today, the one really going, in spite of what is happening? If we do that and pharmaceutical industries get to where they do not have the money to put into research and development, where will our senior citizens be then?

And what about the cures for Alzheimer's, AIDS, diabetes, schizophrenia, and depression; where are they going to come from? There are 35 million people in this country who suffer from depression. We are on the verge of resolving a large part of their problems. The development of Prozac was a step in the right direction. We have a new drug coming from Pfizer that may even be as good, if not better.

We have others that are being developed; for example, the drug for schizophrenia. Nobody ever thought for a minute we could ever solve schizophrenic problems by biological science, but this drug does. Similarly, Merck has a product coming on line that solves problems of benign prostatitis. What a tremendous benefit it will be. If you take away the incentive, we may never get some of the benefit; we may not be able to bring down all the costs of surgery and hospitalization. We cannot do it if we are pennywise and pound foolish.

I will hold up the other charts, to save time. This one, "Drugs as a Percentage of National Health Care Expenditure in 1965" shows how certain drugs have gone down from 8.9 percent of national health expenses to 4.8 percent. Drug manufacturers have done a good job. This fact cannot be ignored.

This chart is the "U.S. Health Care Expenditures as a Percent of Gross National Product." The red bar shows that we have gone from 5.3 percent of the gross national product up to 12.2 percent as of 1990. As of 1992, it may be as high as 14 percent.

Look at where the green bar is in each of these situations. It has basically remained constant. The outpatient prescription drugs as the percentage of the U.S. health care expenditures for those drugs as a percent of gross national product have basically remained constant in comparison to the gross national product.

Last, but not least, is this particular chart that shows the increases in research and development, versus increases in drug price. The index value represents the period from 1982 to 1984. The green bar represents the period from 1985 up through 1991. In this chart, the green shows that the R&D expenses for these companies are far outrunning the CPI Rx or prescription drug index. Yes, it is going up as these drugs become more expensive to produce. As they become more expensive to manufacture. As there are more charges by middle people; and as hospitals charge more.

The manufacturing price is still going up, but it is way below what they are spending for R&D. I get tired of people always presuming the worst and ascribing the most base motives to the pharmaceutical industry. Right now, the pharmaceutical industry is the best in the world. It is one that is working. It is providing hundreds of thousands of jobs, high paying jobs. It is the one area of science where we actually excel over the rest of the world. I can't believe the U.S. Senate wants to jeopardize this progress by putting price controls on them?

Mr. President, I want drug prices to be lower, too. I addressed the Maine Pharmaceutical Manufacturing Corporation not too long ago. It represented the thousands of companies around this country and around the world. I told them that we have to get these prices down.

A number of companies have voluntarily agreed to bring some of their prices down; others give free drugs to poor people who cannot afford them. Burroughs-Wellcome, by a mere request, reduced the price of one of the major principal AIDS drugs by 2,000 percent.

I will continue to work with drug companies to lower prices. But you cannot do it by price regulation. If you do that, you stifle the incentive and take away the desire to take the risk in drug development. This is the one thing I want to get across.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 2 minutes and 37 seconds.

Mr. HATCH. Mr. President, I thank you.

One other thing I would like to say is that I have taken a great interest, as I think every Senator in this body must have, in the biotechnology industry. I have to tell you we have the greatest potential biotechnology industry in the world. But many of the companies are small. They basically have to go out and raise funds for each new project they have.

It costs \$231 million to develop a mainline drug today, and we are developing them right and left in this country because of the incentives.

If we do what the distinguished and sincere Senator from Arkansas wants

to do—put price controls into this industry, artificial price controls, mandated price controls—we will ruin the biotechnology industry of this country. That A set of companies is going to go down to B, C, or D. When that happens, we no longer will lead the world in life-saving and health promoting drugs or pharmaceuticals.

I do not want to see that happen. I know the distinguished Senator from Arkansas is sincere. I know he means well. I know he is trying to get the prices of pharmaceuticals down. We both want to do that. I want to work with him, but I cannot support price regulation. I know that is diametrically opposite to what we should be doing. We should encourage more and more development, as well as lowering prices.

Mr. President, it has been a good debate. I appreciate the thoughts of the distinguished Senator from Arkansas. Please, let us not discourage the pharmaceutical industry from developing new lifesaving drugs through price controls. They can be free like us, productive like us, and they can accomplish the achievements like us; especially with this industry which leads all others in the world.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 16 minutes and 35 seconds remaining.

Mr. PRYOR. Mr. President, how much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator from Utah has 18 seconds.

Mr. PRYOR. Mr. President, I thank the Chair and congratulate the very fine Senator from Utah. He has made a splendid presentation today. He has been most effective.

Mr. President, being not an excellent vote counter around here, but relatively good, I think I know where the votes are going to lie.

Mr. President, I congratulate all my colleagues who participated in this debate. I think it has been a very meaningful debate. I think it will be constructive.

A lot has been made today during the course of the afternoon and morning about the groups for this legislation. If I might, I would like to read into the RECORD the groups that support S. 2000, this amendment that is going to be voted on in a few minutes.

AFL-CIO;  
AIDS Action Council;  
American Association for International Aging;  
American Association of Homes for the Aging;  
American Association of Retired Persons [AARP];  
American Nephrology Nurses Association;

American Pharmaceutical Association;  
AFSCME Retiree Program;  
American Public Welfare Association [APWA];  
Asociacion Nacional Pro Personas Mayores;  
Association for Gerontology in Higher Education;  
Association for Gerontology and Human Development in Historically Black Colleges and Universities;  
Catholic Golden Age;  
Children's Defense Fund [CDF];  
Consumers Union;  
Families USA;  
Gray Panthers;  
Green Thumb;  
Independent Insurance Agents of America;  
International Ladies' Garment Workers' Union [ILGWU];  
Leadership Council of Aging Organizations [LCAO];  
National Association of Area Agencies on Aging;  
National Association of Foster Grandparents Program Directors;  
National Association of Life Underwriters;  
National Association of Meal Programs;  
National Association of Older American Volunteer Program Directors;  
National Association of Retired Federal Employees;  
National Association of RSVP Directors;  
National Association of Senior Companion Project Directors;  
National Association of State Units on Aging;  
National Caucus and Center on Black Aged [NCCBA];  
National Committee to Preserve Social Security and Medicare;  
National Consumers League [NCL];  
National Council of Senior Citizens;  
National Hispanic Council on Aging;  
National Indian Council on Aging;  
National Rural Electric Cooperative Association;  
National Small Business United;  
North American Transplant Coordinators Organization;  
Older Women's League;  
Pennsylvania Council on Aging;  
Puerto Ricans in Civic Action;  
Small Business Legislative Council; and the  
United Auto Workers Retired Members Department.

Mr. President, I ask unanimous consent that letters of support from some of these 42 national organizations, along with a response to the drug industry's argument about research and development, and a factual response to PMA's so-called factsheet that they are circulating on the Hill, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS LEGISLATIVE COUNCIL,  
Washington, March 9, 1992.

Hon. DAVID PRYOR,  
Chairman, Special Committee on Aging, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Small Business Legislative Council (SBLC), I would like to express our support for your legislative initiative, the Prescription Drug Cost Containment Act of 1991, S. 2000. As you know, we are keenly interested in finding ways to cope with the out-of-control costs of our health care system.

We have testified on numerous occasions stating we must begin to impose cost containment measures on the health care community. It is no longer sufficient to just talk about doing something to control costs. We need to take action now before there is any further erosion of the employment based health insurance coverage system.

As we understand it, your proposal does not impose price controls, but rather, adopts a "carrot and stick" approach that links the taxpayer-underwritten financial reward to achievable performance standards. As usual, your initiative reflects your appreciation of the need for solutions which are business-oriented and which balance the concerns of various constituents.

The real health care crisis in America may be yet to come. That crisis could be the collapse of a system burdened by out-of-control costs that can no longer be economically supported. Our challenge then, is to act now and try to avert such a crisis, and ensure that Americans continue to have the best health care possible. We applaud you for your efforts to meet that challenge.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

ROBERT D. BANNISTER,  
Chairman.

MEMBERS OF THE SMALL BUSINESS  
LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.  
Alliance for Affordable Health Care.  
Alliance of Independent Store Owners and Professionals.  
American Animal Hospital Association.  
American Association of Nurserymen.  
American Bus Association.  
American Consulting Engineers Council.  
American Council of Independent Laboratories.  
American Floorcovering Association.  
American Machine Tool Distributors Association.  
American Road & Transportation Builders Association.  
American Society of Travel Agents, Inc.  
American Sod Producers Association.  
American Subcontractors Association.  
American Textile Machinery Association.  
American Trucking Associations, Inc.  
American Warehouse Association.  
Architectural Precast Association.  
Associated Builders & Contractors.  
Associated Equipment Distributors.  
Associated Landscape Contractors of America.  
Association of Small Business Development Centers.  
Association of the Wall and Ceiling Industries-International.  
Automotive Service Association.  
Automotive Warehouse Distributors Association.  
Building Proprietors Association of America.  
Building Service Contractors Association International.

Business Advertising Council.  
C-PORT.  
Christian Booksellers Association.  
Council of Fleet Specialists.  
Electronics Representatives Association.  
Florists' Transworld Delivery Association.  
Helicopter Association International.  
Independent Bakers Association.  
Independent Medical Distributors Association.  
Independent Sewing Machine Dealers Association.  
International Association of Refrigerated Warehouses.  
International Bottled Water Association.  
International Communications Industries Association.  
International Formalwear Association.  
International Franchise Association.  
Jewelers of America, Inc.  
Machinery Dealers National Association.  
Manufacturers Agents National Association.  
Manufacturers Representatives of America, Inc.  
Mechanical Contractors Association of America, Inc.  
Menswear Retailers of America.  
NMTBA-The Association for Manufacturing Technology.  
National Association for the Self-Employed.  
National Association of Brick Distributors.  
National Association of Catalog Showroom Merchandisers.  
National Association of Chemical Distributors.  
National Association of Home Builders.  
National Association of Investment Companies.  
National Association of Passenger Vessel Owners.  
National Association of Personnel Consultants.  
National Association of Plumbing-Heating-Cooling Contractors.  
National Association of Realtors®.  
National Association of Retail Druggists.  
National Association of Small Business Investment Companies.  
National Association of the Remodeling Industry.  
National Association of Truck Stop Operators.  
National Campground Owners Association.  
National Candy Wholesalers Association.  
National Chimney Sweep Guild.  
National Coffee Service Association.  
National Electrical Contractors Association.  
National Electrical Manufacturers Representatives Association.  
National Fastener Distributors Association.  
National Food Brokers Association.  
National Grocers Association.  
National Independent Flag Dealers Association.  
National Knitwear & Sportswear Association.  
National Limousine Association.  
National Lumber & Building Material Dealers Association.  
National Moving and Storage Association.  
National Ornamental & Miscellaneous Metals Association.  
National Paperbox Association.  
National Parking Association.  
National Precast Concrete Association.  
National Shoe Retailers Association.  
National Society of Public Accountants.  
National Tire Dealers & Retreaders Association.  
National Tooling and Machining Association.

National Tour Association.  
National Venture Capital Association.  
Opticians Association of America.  
Organization for the Protection and Advancement of Small Telephone Companies.  
Petroleum Marketers Association of America.  
Printing Industries of America, Inc.  
Professional Plant Growers Association.  
Retail Bakers of America.  
SMC/Pennsylvania Small Business.  
Small Business Council of America, Inc.  
Society of American Florists.  
Specialty Advertising Association International.  
United Bus Owners of America.

NATIONAL SMALL BUSINESS UNITED,  
Washington, DC, October 24, 1991.  
Senator DAVID PRYOR,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR: I have learned about your intent to introduce the Prescription Drug Cost Containment Act of 1991. Small businesses are well aware of escalating costs for health care and more specifically the element of those costs which are the result of rapidly rising drug prices.

I wanted you to know that National Small Business United is pleased to endorse and support your proposal and will work aggressively to enact this legislation at the earliest possible opportunity.

The ability of small businesses to provide health care to their employees is limited by the cost of health care. Containing those costs will ensure that more small businesses will maintain their coverage and their benefits.

Your efforts on these issues is greatly appreciated by NSBU and the American small business community. You are a great friend. Thank you very much for all you do.

I am pleased you are feeling better and look forward to seeing you again soon. Please call me if I can be of further help in this endeavor.

Sincerely,

JOHN PAUL GALLES,  
Executive Vice President.

NATIONAL RURAL ELECTRIC  
COOPERATIVE ASSOCIATION,  
Washington, DC, December 10, 1991.  
Senator DAVID PRYOR,  
Chairman, U.S. Senate, Special Committee on Aging, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Rural Electric Cooperative Association, I would like to thank you for cosponsoring The Prescription Drug Cost Containment Act of 1991.

NRECA is the national service organization of the approximately 1,000 rural electric service systems operating in 46 states. Our programs provide pension, health, and other welfare benefits to over 125,000 rural electric employees, dependents, directors, and consumer-members in rural communities.

Prescription drugs accounted for over \$20 million of the \$190 million of medical benefits paid under the NRECA health plans in 1990, up from \$8.9 million in 1987. We believe such increases are not sustainable over the longer term. They lead to higher insurance premiums and employee payments, counteracting some of the many painful steps employers have taken and will take to keep their health care costs under control.

We wholeheartedly endorse the Act. We support the bill's provisions making the Section 936 tax credit contingent on job creation. Ongoing federal budget problems

demand that tax incentives pay their way in results.

We support the proposed Federal Prescription Drug Fund. Adequate access to needed prescription drugs can help our elderly avoid both medical and financial hardships.

We support expanded study and reporting of prescription drug prices, both domestically and worldwide. As medical science increasingly comes to rely on drug therapies over more invasive procedures, it will be ever more important to ensure that Americans are getting value for their health care dollars.

Thank you for your support of this legislation and for the benefits it will bring to rural Americans.

Sincerely,

BOB BERGLAND,  
Executive Vice President.

THE NATIONAL ASSOCIATION OF  
LIFE UNDERWRITERS,  
Washington, DC, November 4, 1991.

Hon. DAVID PRYOR,  
Chairman, U.S. Senate Special Committee on  
Aging, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the National Association of Life Underwriters, we are writing to convey our strong endorsement for the Prescription Drug Cost Containment Act of 1991. We believe that your bill offers a sensible and business-like approach to containing the costs of prescription drugs.

As your recently released Aging Committee report on the drug manufacturing industry shows, for over a decade, the drug industry has subjected the American public to prescription drug inflation that triples the rate of general inflation. This exceedingly distressing inflation trend continues and is worsening in the 1990's. These increased costs force insurance premiums to rise and make health insurance less affordable for larger and larger numbers of Americans.

As you well know, consumers, businesses, insurers and insurance agents have grown increasingly frustrated with skyrocketing health care costs. Innovative, tax incentive proposals, such as yours, deserve the strong support of all organizations that have repeatedly called for the implementation of effective and realistic health care cost containment strategies.

As taxpayers and responsible members of the health care industry, our membership strongly agrees with your position that non-research and development tax subsidies should be given only in return for responsible prescription pricing practices. Your "carrot and stick" approach to linking access to the Section 936 tax credit as a reward for reasonable pricing policies is logical and laudable.

We look forward to working with you to enact the Prescription Drug Cost Containment Act as quickly as possible. Please do not hesitate to call on us again to support this and other health care proposals that have great potential to contain costs and improve access to insurance, while not totally restructuring our health care system.

Sincerely,

DAVID E. HEBERT,  
Counsel, Government Affairs.

INDEPENDENT INSURANCE AGENTS  
OF AMERICA, INC.,  
Washington, DC, November 6, 1991.

Hon. DAVID PRYOR,  
Chairman, U.S. Senate Special Committee on  
Aging, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the Independent Agents of America (IAA) and

our 220,000 members, I want to commend you for your efforts in improving the access and affordability of health care to our nation's citizens. In particular, I would like to express our strong endorsement for the "Prescription Drug Cost Containment Act of 1991". This legislation will provide a practical and workable method by which the skyrocketing cost of prescription drugs can be controlled.

As you know, Americans spend almost 20% of each dollar on health care each year—as a nation we spend \$647 billion on health care and insurance. Much of that cost can be attributed to the rising cost of prescription drugs. In the report entitled, "The Drug Manufacturing Industry: A Prescription For Profits," your committee reported that prescription drug costs increased three times the rate of inflation. These costs are invariably passed on to the insurance industry, forcing premiums to rise and unfortunately pricing consumers out of the market.

The Independent Insurance Agents of America is obviously concerned with this trend and we are constantly looking at new proposals which claim to have a cure for the nation's health care woes. An innovative, tax incentive proposal, such as yours, deserves the strong support of all organizations that have an interest in an effective and realistic cost containment strategy.

As small business-people and taxpayers, our membership strongly agrees with your position that non-research and development subsidies should only be given to those companies who practice responsible and reasonable cost containment. By linking access to the section 936 tax credit as a reward for sensible pricing practices, your approach will offer the incentive for drug manufacturers to curb costs.

We look forward to working with you to enact the "Prescription Drug Cost Containment Act" as quickly as possible. Please do not hesitate to call on us again to support this and other innovative health care proposals.

Sincerely,

CHRISTOPHER D. LARSEN.

PUERTORICANS IN CIVIC ACTION,  
Mayaguez, PR, March 6, 1992.

Hon. DAVID PRYOR,  
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: We wish to convey our support for Bill S. 2000 which you are planning to introduce. As President of a non-partisan organization that has delivered 350,000 individually signed petitions from the people of Puerto Rico to Congress demanding equal rights as United States citizens, we share your concerns as to the 936 tax credits and whether it benefits the people of Puerto Rico and our fellow citizens in the United States.

We do not believe 936 tax credits benefit economic development in Puerto Rico but represent an ever increasing federal tax credit that costs United States Treasury over \$2 billion annually. The 936 corporations essentially receive from the United States Treasury a \$100,000 tax credit for each person that they employ.

We don't see the tremendous benefits of Section 936 for the Puerto Rico people. The average salary of these corporations is within the minimum salary range, and those 936 corporations that provide comparatively the least number of employees are those that received the greatest benefits. Circa 50 percent of its tax expenditures go to pharmaceutical corporations that employ 18,000 persons—about 14 percent of employment in Puerto Rico's manufacturing sector.

As a physician, and in a personal way, I am also very concerned about the high costs of medication when I see one of my patients shell out over \$100.00 for a bottle of pills that he or she needs to keep alive. It is disgraceful that the people of Puerto Rico also have to pay these high costs when our per capita is below \$4,000 and these drugs are being produced in Puerto Rico with a free tax ride and don't even produce the number of jobs we need to help our economy.

We again affirm our support for your efforts to provide relief to the people of Puerto Rico and our fellow citizens in the United States. Give us equal rights and let us assume our full responsibilities.

Sincerely,

MIRAM J. RAMIREZ FERRER, M.D.

CONSUMERS UNION,  
Washington, DC, February 18, 1992.

Hon. DAVID PRYOR,  
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of Consumers Union, we strongly endorse the Prescription Drug Cost Containment act, S. 2000 sponsored by Senator David Pryor and we urge you to co-sponsor this measure.

This sensible approach to controlling spiralling drug costs by tying the availability of tax subsidies to responsible pricing practices should be embraced by everyone who argues for medical cost containment. We are gravely concerned that if Congress fails to exercise leadership in this area and prescription drug prices continue to escalate into the stratosphere, these life-sustaining products will only be available to the wealthy.

While we would prefer that drug companies voluntarily limit their own prices to the rate of inflation, past behavior does not give us any confidence that voluntary approaches will work absent legislative intervention, such as S. 2000. At this time of crisis in health care costs, it is appropriate for drug companies obtaining substantial tax benefits subsidized by taxpayers, to give something of value—i.e. cost controls—back to consumers.

Additionally, we favor the establishment of the Medicare Prescription Drug Benefit Demonstration Project and Trust Fund. The lack of drug reimbursement in Medicare has long troubled us. The demonstration should begin to address the feasibility of including prescription drug benefits in a government program.

We urge you to join Senator Pryor and 11 other co-sponsors in supporting this important cost containment initiative.

Sincerely,

LINDA LIPSEN,  
Legislative Counsel.

LEADERSHIP COUNCIL OF  
AGING ORGANIZATIONS,  
Washington, DC, October 30, 1991.

Hon. DAVID PRYOR,  
Chairman, Senate Special Committee on Aging,  
Washington, DC.

DEAR SENATOR PRYOR: The undersigned members of the Leadership Council of Aging Organizations (LCAO) endorse the provisions of the Prescription Drug Cost Containment Act of 1991. We believe that this bill offers a sensible and realistic approach to effectively containing the costs of prescription drugs for all citizens and we commend you for this important legislative initiative.

As recent studies, including the Aging Committee report on the Drug Manufacturing Industry, document, the cost of drugs shows a pattern of price inflation triple that of the overall inflation rate. We are aware that citizens of other countries, including

Canada and European nations, pay far less for critically needed pharmaceuticals than do our own citizens.

Older Americans have a strong dependence on prescription drugs to maintain health and independence. For many older persons, the price of such prescriptions are their largest out-of-pocket expense and few have any insurance to cover costs.

Therefore, we support the purpose of your bill to link more responsible pricing practices to the continuation of non-research and development tax subsidies. We believe that your firm standards linking access to Section 936 tax credits as a reward for reasonable pricing policies is a logical approach.

We also note that you include in your bill a provision assuring that any revenue withheld from the tax incentive mechanism because of continued excessive and inflationary pricing policies of drug manufacturers would be funneled into a new Federal Prescription Drug Trust Fund. Thus, whichever way the industry might respond to the proposed law, consumers, young and old, will benefit.

Last year, many LCAO members supported your efforts to ensure that legislation was enacted that gave Medicaid programs the same access to discounts for pharmaceuticals provided to other institutional consumers of these products. We continue to support your efforts to reduce such drug prices to Medicaid patients while assuring the highest quality of care for low-income persons.

We see the introduction of the Prescription Drug Cost Containment Act as the next logical step to ensure that all citizens—especially the increasing older population—have access to fair and affordable prescription drug prices.

We look forward to working with you to see that this vital legislation is enacted as quickly as possible.

Sincerely,

LAWRENCE T. SMEDLEY,  
Chairman.

The following members of the LCAO endorse the attached letter:

American Association for International Aging.

American Association of Homes for the Aging.

American Association of Retired Persons.

AFSCME Retiree Program.

Asociación Nacional Pro Personas Mayores.

Association for Gerontology in Higher Education.

Association for Gerontology and Human Development in Historically Black Colleges and Universities.

Catholic Golden Age.

Families USA.

Gray Panthers.

Green Thumb.

National Association of Area Agencies on Aging.

National Association of Foster Grandparents Program Directors.

National Association of Meal Programs.

National Association of Older American Volunteer Program Directors.

National Association of Retired Federal Employees.

National Association of Senior Companion Project Directors.

National Association of State Units on Aging.

National Caucus and Center on Black Aged, Inc.

National Council of Senior Citizens.

National Hispanic Council on Aging.  
Older Women's League.

FAMILIES UNITED FOR SENIOR ACTION,  
Washington, DC, November 8, 1991.

Hon. DAVID PRYOR,  
Chairman, Senate Special Committee on Aging,  
Washington, DC.

DEAR SENATOR PRYOR: Congratulations on the introduction of the Prescription Drug Inflation Containment Act of 1991.

Health care costs in general are escalating out of control. Controlling these costs presents a formidable challenge for anyone who cares about assuring health care for all Americans. We support your Prescription Drug Bill which makes an important contribution to the effort to hold down costs.

Prescription drugs are a major contributor to the overall problem of rising costs. The cost of prescription drugs from 1980 to 1990 escalated 151 percent faster than the increase in consumer prices in general and 28 percent faster than the increase in the medical care component. They are the highest of all medical care components of the CPI. All Americans, and especially the elderly (who disproportionately use these drugs), are experiencing serious financial strain because of this escalation.

Your bill constitutes a thoughtful effort to slow down inappropriate prescription drug cost increases. The linkage between Section 936 tax credits and reasonable pricing policies, the Prescription Drug Policy Review Commission and the studies and reports required by your bill will make important contributions to bringing drug prices under control.

We also appreciate your acknowledgement of the needs of lower income seniors who do not have any prescription drug protection by establishing a Federal Prescription Drug Trust Fund. As you know, a number of states have already implemented prescription drug assistance programs for lower income seniors. Those states include: Connecticut, Delaware, Illinois, Maine, Maryland, New Jersey, New York, Pennsylvania and Rhode Island. We think that they can provide valuable information on what changes to Medicare will be feasible to provide drug protection for vulnerable seniors.

We would be happy to work with you to assess the information that is already available so that the Federal Prescription Drug Trust Fund builds on the existing knowledge of current state programs. It is our hope that a very substantial portion of the money saved by your bill can be devoted to establishing comparable prescription drug programs around the country.

As you know, in addition to needing assistance in obtaining prescription drugs, lower-income seniors need assistance with out-of-pocket costs generally. You have been very supportive of the Qualified Medicare Beneficiary Program which provides this protection for some seniors. We hope you will consider using some of the savings produced by your drug bill to make the QMB program more effective in reaching and signing up eligible beneficiaries.

Last year, we worked with you and supported your efforts to ensure that legislation was enacted that gave the Medicare program access to lower prices for pharmaceuticals. Consistent with this position, we continue to fully support your recently released report's recommendation that advocated giving the Medicaid program, and the low-income population it serves, access to the best prices in the market as of a certain date. We are pleased to note, and are in total agreement

with, the conclusion reached by the Inspector General of the Department of Health and Human Services that this approach has the most potential of assuring savings for Medicaid and eliminating excuses for cost-shifting.

We look forward to working with you on this and other legislation that assists all Americans in gaining access to fairly-priced, affordable prescription drugs.

Sincerely,

RONALD F. POLLACK,  
Executive Director.

NATIONAL ASSOCIATION OF  
RETIRED FEDERAL EMPLOYEES,  
Washington, DC, October 23, 1991.

Hon. DAVID PRYOR,  
Chairman, Special Committee on Aging, Dirksen  
Office Building, U.S. Senate, Washington,  
DC.

DEAR CHAIRMAN PRYOR: On behalf of the nearly 500,000 members of the National Association of Retired Federal Employees, I would like to express our support of your Prescription Drug Inflation Containment Act of 1991.

Studies such as the Aging Committee's report on the Drug Manufacturing Industry, document that the cost of drugs triple that of the overall consumer price index and have inflated at a higher rate than any other component of the medical inflation index. From the standpoint of prescription drug inflation, industry profits, marketing expenditures and the degree to which Americans subsidize the drug manufacturing industry, there is no better time than now for legislation which curtails some of these inequities.

The elderly have a strong dependence on prescription drugs to maintain health and independence. For a large majority of them, the price of such prescriptions are their largest out-of-pocket expenditure, and many are simply unable to cover the required costs.

We support the purpose of your bill to link pricing practices to Section 936 tax credits as a logical and reasonable approach. In addition, establishing the Federal Prescription Drug Trust Fund and the Drug Policy Review Commission will provide some necessary "checks and balances" which should eventually limit the now skyrocketing costs.

We look forward to working with you to see that this vital legislation is enacted as soon as possible. Please contact me or our Legislative Director, Judy Park, if you need any assistance.

Sincerely,

HAROLD PRICE,  
President.

NATIONAL INDIAN COUNCIL  
ON AGING INC.,  
Albuquerque, NM, October 30, 1991.

Hon. DAVID PRYOR,  
Chairman, U.S. Senate Special Committee on  
Aging, Senate Dirksen Building, Washing-  
ton, DC.

DEAR SENATOR PRYOR: The National Indian Council on Aging fully endorses your legislative initiative to bring more reasonable prices to prescription drug consumers. American Indian elders, who comprise the single most disadvantaged minority in America, can by no means afford the drug manufacturing industry's inflationary price increases.

Although prescription drug prices are only one part of a national health care crisis for Indian elders, your efforts to correct this situation are appropriate—and they are very badly needed. Please advise me if we can assist the passage of this important legislation.

Sincerely,

DAVE BALDRIDGE,  
Executive Director.

THE NATIONAL CAUCUS AND CENTER  
ON BLACK AGED, INC.,  
Washington, DC, October 24, 1991.

Hon. DAVID H. PRYOR,  
Chairman, U.S. Senate Special Committee on  
Aging; Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR PRYOR: The National Caucus and Center on Black Aged (NCBA) strongly supports your efforts to control rapidly escalating prescription drug prices, which often fall most heavily upon those who are least able to afford it. Your recent report—entitled "The Drug Manufacturing Industry: A Prescription for Profits"—corroborates many findings that NCBA has made when analyzing the impact of soaring prescription drug prices for aged Blacks and other older Americans.

Prescription drug costs have skyrocketed in recent years for elderly Blacks and other older consumers. NCBA is both alarmed and deeply disturbed that prescription drug prices leaped forward at a pace nearly three times the overall inflationary rate during the 1980's. This burden has taken a heavy toll upon aged Blacks, who are more than three times as likely to be poor as elderly Whites.

It has been especially onerous because older Blacks and other low-income aged Americans have comparatively little protection to shield themselves from this rapidly rising cost. The harsh reality is that prescription drug prices represent the number one out-of-pocket expenditure for three out of every four persons 65 years of age or older.

Our analysis of this issue makes it clear that higher prices for prescriptions are accounting for nearly all of the spiraling medication costs, rather than greater utilization by consumers. Elderly Blacks and other older consumers are the victims of the seemingly uncontrolled prescription drug escalation, rather than a cause.

For these reasons, we believe that concrete actions must be taken to assure that aged Blacks and other low-income older Americans have access to quality and safe medications at a price that they can afford. NCBA commends you for your leadership in focusing on this crucial issue for millions of aged persons in the United States, particularly those struggling on limited incomes. If you need additional information about the accessibility of prescription drugs and the impact of rising medication costs for aged Blacks, NCBA would be delighted to update the information that we have obtained in prior years. Moreover, NCBA looks forward to working with you and your staff to develop a sound national prescription drug policy for older Americans at a cost which is fair and reasonable.

Sincerely,

SAMUEL J. SIMMONS,  
President.

STATEMENT OF THE CHILDREN'S DEFENSE  
FUND IN SUPPORT OF THE PRESCRIPTION  
DRUG COST CONTAINMENT ACT OF 1991

The Children's Defense Fund adds its support to the Prescription Drug Cost Containment Act of 1991, sponsored by Senator David Pryor. Millions of Americans of all ages depend on prescribed drugs. It is unconscionable that for so many citizens, essential pharmaceuticals are simply beyond their reach because of the extraordinary prices charged by manufacturers. Even so basic a health service as childhood immunizations is now inaccessible to millions of children in low- and moderate-income families because of the price of vaccines. By containing the upward spiral in drug prices and simulta-

neously investing the savings generated in improved drug coverage for Medicare beneficiaries, the measure sets a strong precedent for both responsible cost containment and enhanced health care access.

AIDS ACTION,

Washington, DC, October 28, 1991.

Senator DAVID PRYOR,  
Chairman, Senate Special Committee on Aging,  
Washington, DC.

DEAR SENATOR PRYOR: On behalf of AIDS Action Council, which represents over 200 community based AIDS service organizations from around the nation, I am pleased to express strong support for the Prescription Drug Cost Containment Act of 1991.

The AIDS community has learned through bitter experience the need for dramatic reform in the pricing structure of prescription drugs. Almost every major breakthrough in treatment for HIV infection or the opportunistic infections associated with AIDS has been accompanied by difficulties in accessing these life-extending treatments because of exorbitant costs. The most recent example—and perhaps the most outrageous to date—is the recently approved drug, foscarnet, which treats CMV retinitis, a sight threatening opportunistic infection. Foscarnet is being sold for approximately \$20,000 a year, at wholesale prices. Even with the most generous estimates of research and development costs, this price cannot come close to being justified, especially since the American taxpayers footed a \$12 million dollar bill to undertake the clinical trials that proved the value of this drug.

Advances in treatment of HIV infection and prophylaxis against the associated opportunistic infections have meant fewer hospitalizations and debilitating illnesses for many people with HIV infection when they can afford the prescription drugs. Because those drugs are often inaccessible (and so many people do not have prescription drug coverage) more health care dollars are going toward unnecessary and far more costly hospitalizations.

It is for these reasons that we strongly endorse your efforts to rein in the cost of prescription drugs. No community more than the AIDS community understands the critical need for research and development. No community is more anxious to see the pharmaceutical industry contribute to advances in therapies for all kinds of diseases. But we also know that a balance must be struck between the legitimate desire of the private sector to earn a profit and the need for that product to be accessible to all in need.

We thank you for your leadership on this issue and stand ready to assist you in pushing for passage of this important legislation.

Sincerely,

JEFFREY LEVI,  
Director of Government Affairs.

NATIONAL CONSUMERS LEAGUE,  
Washington, DC, October 24, 1991.

Hon. DAVID PRYOR,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR PRYOR: The National Consumers League supports your efforts to control our nation's spiraling health care costs with the Prescription Drug Cost Containment Act. The League's position calls for a comprehensive national health care program providing universal access to quality care with appropriate cost controls. Until our nation does have total health care reform, your bill provides one mechanism to increase access to health care and achieve cost savings.

This legislation, calling for a reduction in tax credits for drug manufacturers that increase prices over the consumer price index, will result in consumer savings on prescriptions. Drug manufacturers will have a choice either to keep their price increases below the consumer price index or have their tax credits reduced. Presently Merck Sharp and Dohme, voluntarily restricts its annual price to the CPI-U; surely the other drug manufacturers can do it as well. Those manufacturers that continue to raise their prices over the CPI-U, will have their tax credits directed into the establishment of Federal Prescription Drug Trust Fund.

The League supports using the monies from this Fund to provide Medicare coverage for prescription drugs in fifteen demonstration programs. The league endorsed earlier legislation mandating Medicare coverage for prescription drugs. This feasibility study is an important step forward.

Similarly, the League supports using the Fund to create a Prescription Drug Policy Review Commission. This commission, like the Prospective Payment Assessment Commission (ProPAC) and the Physician Payment Review Commission (PhysPRC), can provide useful information to policymakers.

Your vision will help Americans begin to control health care costs.

Sincerely,

LINDA F. GOLODNER,  
Executive Director.

NATIONAL COMMITTEE TO PRESERVE  
SOCIAL SECURITY AND MEDICARE,  
Washington, DC, February 14, 1992.

Hon. DAVID PRYOR,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR PRYOR: On behalf of the approximately five million members and supporters of the National Committee to Preserve Social Security and Medicare, we are writing to request you to join 11 other Senators in cosponsoring Senator Pryor's legislation, the Prescription Drug Cost Containment Act. This bill addresses one of the greatest needs of seniors and all Americans—access to affordable prescription drugs.

Hardest hit by the prescription drug price inflation crisis has been older Americans. For three out of every four elderly, prescription drug expenses represent their largest out-of-pocket cost. Moreover, according to a Congressional Budget Office report released last summer, at least 60 percent of all older Americans have no insurance whatsoever to pay for these catastrophic prescription drug costs. Many of our members write that they are having to make the difficult choice between buying food or purchasing their medications. No one in the United States should have to make this kind of decision. We believe that S. 2000 begins to address this unacceptable problem.

Included in S. 2000 is a critical safeguard provision assuring that revenue saved from the tax incentive mechanism would be funneled into a new Federal Prescription Drug Trust Fund. In turn, this Trust Fund would be used to establish a Medicare Prescription Drug Benefit Demonstration Project. We believe this to be an extremely important element of the bill. It not only assures that regardless of how the manufacturers respond, consumers will benefit, but it also provides the opportunity to study the feasibility of amending the Medicare program to provide some relief to the high cost of prescription drugs for some of the most vulnerable in our society. We are confident that the provisions of the bill will not impair manufacturers

from continuing their research and developing life-saving medicines so important to all Americans, including seniors.

Members of the National Committee, as do all seniors, want and need access to fair and affordable prescription drug prices. We believe that your support is crucial in making this a reality. Thank you for your consideration.

Sincerely,

MARTHA A. MCSTEEN,  
President.

AMERICAN PHARMACEUTICAL  
ASSOCIATION,  
Washington, DC, November 19, 1991.

Hon. DAVID PRYOR,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR PRYOR: The American Pharmaceutical Association (APhA), the national professional society of pharmacists, is pleased to respond to your request to review the legislative specifications of your proposed bill entitled, "The Prescription Drug Inflation Containment Act of 1991." We wish to express our support for the concepts and approach set forth in the summary and outline of your legislation. As we have not reviewed the actual statutory language, we must reserve our formal endorsement until such time as that review has occurred.

We wish to commend your efforts in bringing to the attention of your colleagues in the Senate and House important policy questions relating to prescription drug utilization and pricing. APhA shares your concerns regarding the need to improve access to and appropriate use of prescription drugs. We believe your bill offers the potential for achieving these objectives as well as moderating the rate of escalation of prices for prescription drugs. The need for improving access to appropriate drugs and drug therapy management has never been as great as it is now when the financing and operation of the nation's health delivery system is in such jeopardy. Your leadership in these matters is genuinely appreciated.

Our primary interest in your proposal relates to the Medicare outpatient demonstration projects. APhA has long endorsed expansion of Medicare to cover outpatient prescription drugs and, most recently, supported inclusion of a drug benefit in the Medicare Catastrophic Coverage Act of 1988 (which was subsequently repealed). Your proposal for 15 demonstration projects to assess the impact of a Medicare outpatient prescription drug coverage on cost, quality of care and access to prescription drugs would provide a solid foundation on which to rebuild such a benefit.

Your current proposal recognizes the important contribution pharmacists must make in order to assure optimal outcomes from drug usage. We therefore specifically endorse as part of the demonstration projects the incorporation of a drug use review (DUR) component similar to that required for Medicaid under the Omnibus Budget Reconciliation Act of 1990. We firmly believe that a partnership between the professions of pharmacy and medicine in implementing DUR will synergize their respective skills to the benefit of those patients served by the program. Similarly, your interest in seeking a more rational system for reimbursing pharmacists for services they provide in product dispensing and drug utilization management is sound and greatly appreciated.

We are also pleased to see that you have called for the establishment of a Prescription Drug Policy Review Commission to ex-

amine the many issues involving prescription drugs. As was noted in the materials we were asked to review, RxPRC was first conceived as part of the Medicare Catastrophic Coverage Act. We supported the idea then and do so now, particularly with its mandate broadened beyond Medicare coverage of prescription drugs.

We would like to suggest that you consider two modifications to your proposal: (1) that, in addition to the funding of the demonstration projects, revenue from the recapture of Section 936 tax credits also be used to provide additional resources at the Food and Drug Administration for the specific purpose of expediting the drug approval process and (2) that the Section 936 reduction formula not be applied to a manufacturer in any year that this same manufacturer obtains a 1A new drug approval (NDA) from the FDA.

The American Pharmaceutical Association believes drug therapy is among the most cost-effective treatment modalities available to patients and practitioners. We are encouraged by your efforts as they indicate that you share this view. We look forward to working with you and your staff as you pursue enactment of this legislative proposal.

Sincerely,

JOHN A. GANS,  
Executive Vice President.

AMERICAN PUBLIC  
WELFARE ASSOCIATION,  
Washington, DC, October 28, 1991.

Hon. DAVID PRYOR,  
Chairman, Senate Special Committee on Aging,  
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: I write to you on behalf of the American Public Welfare Association (APWA), which represents state human service agencies across the country, in support of your continued efforts to contain prescription drug costs. While states are affected in several ways by the rising costs of prescription drugs, the APWA is particularly concerned about the impact of rising prices on state programs such as Medicaid, that fund prescription drug coverage for low-income citizens.

We support your efforts to begin a debate on prescription drug increases and to explore ways to contain prescription drug costs as your legislation, "The Prescription Drug Cost Containment Act of 1991" would do. Such a debate is necessary because prescription drugs are a significant component in the overall growth of health care expenditures in this country.

Sincerely,

A. SIDNEY JOHNSON III,  
Executive Director.

—  
AARP,  
Washington, DC, November 5, 1991.

Hon. DAVID H. PRYOR,  
Chairman, Special Committee on Aging, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN PRYOR: On behalf of the American Association of Retired Persons, I want to commend you for introducing the "Prescription Drug Inflation Containment Act of 1991." As you know, older Americans more than any other age group are at risk of losing access to needed medications due to runaway drug prices. Your legislation offers a sensible way to begin curbing the uninhibited growth in prescription drug prices.

AARP is committed to expanding access to quality, affordable health care. In this regard, we are increasingly concerned about the escalating costs of prescription drugs.

The report recently released by your Committee shows that the rapid escalation of prescription drug prices over the last decade continues to accelerate. As a result, consumers who cannot afford ever-increasing prescription drug prices are denied access to needed medications.

More than any other group in our society, older Americans' ability to purchase needed drug therapies is jeopardized by persistently high prescription drug prices and higher utilization. In the U.S., persons aged 65 and older represent only 12 percent of the population, yet in 1988 they accounted for 34.3 percent (\$9.1 billion) of the \$26.5 billion spent on retail prescription drugs. High prices, heavy utilization, and the absence of affordable insurance coverage have converged to make prescription drugs the highest out-of-pocket medical expense for three out of four older Americans. These high costs deny too many older Americans access to essential, often life-saving, products—making them more vulnerable to unnecessary and more expensive acute care.

From the consumer's perspective, a better balance is necessary between record-breaking drug company profits and the affordability of prescription medications to the patients who need them. In this regard, AARP firmly believes that your proposal to link the availability of Section 936 tax credits to reasonable pricing practices by drug manufacturers will add some greatly needed balance.

AARP is also pleased to see that your legislation proposes to use the money saved by the limitation on Section 936 tax credits to fund outpatient prescription drug demonstration programs under Medicare. The Association strongly supports greater access to, and cost containment of, prescription drugs by expanding Medicare to include outpatient drug coverage. The pilot programs proposed in your legislation will help demonstrate the need for such a benefit on a nationwide level.

Last year, AARP supported your efforts to ensure that the Medicaid program receive the same deep pharmaceutical discounts provided to other large institutional buyers. The Medicaid rebate legislation included in the Omnibus Budget Reconciliation Act of 1990 was a step in the right direction in that it was designed to improve access to needed medications for Medicaid patients. AARP believes the Prescription Drug Inflation Containment Act is another step in the right direction in that it will help all citizens—especially the most vulnerable—to gain better access to needed drug therapies by encouraging more reasonable prices.

AARP applauds the introduction of the prescription Drug Inflation Containment Act, and we welcome the opportunity to work with you and other members of the Senate to improve access to needed medications. If we can assist you in any way on this legislation, please do not hesitate to call me or have your staff call Dan Durham of our Federal Affairs Department at 434-3770.

Sincerely,

HORACE B. DEETS.

INTERNATIONAL LADIES' GARMENT  
WORKERS' UNION, AFL-CIO,  
New York, NY, October 24, 1991.  
Senator DAVID PRYOR,  
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Prescription drug therapy has increasingly become a more expensive and essential part of health care. Although the ILGWU strongly advocates a systemic solution to the health care crisis, we

recognize the urgency of bringing the current alarming prescription price inflation rate under control. The ILGWU Health Services Plan provides prescription drug coverage to several hundred thousand workers, retirees and their families. It has first hand experience of the difficulty of financing prescription drug coverage in the face of unabated accelerating drug price inflation.

The ILGWU, therefore, is strongly supportive of certain proposals in the Prescription Drug Cost Containment Act of 1991 such as the establishment of a prescription drug price review board which will evaluate the feasibility of incentives to encourage drug manufacturers to lower prices, including a reduction of the period of market exclusivity for excessively priced drugs.

We also strongly support and advocate the inclusion of prescription drug coverage in Medicare as a first step toward the inclusion of prescription drug coverage in a comprehensive national health insurance plan.

This statement is limited to support of the above two specific proposals and does not constitute approval or disapproval of other aspects of the proposed bill, other than our strong belief that the manufacture and distribution of prescription drugs warrant closer oversight in view of the exorbitant profits recorded for the industry.

Sincerely yours,

EVELYN DUBROW,  
Vice President and  
Legislative Director.  
THEODORE BERNSTEIN,  
Director, Benefit  
Funds Department.

PENNSYLVANIA COUNCIL ON AGING—  
RESOLUTION

Whereas the Pennsylvania Council on Aging (the Council) is a statutorily created organization within the Office of the Governor;

Whereas the Council is composed of 21 members who are nominated by the Governor and confirmed by the Senate, and who represent all geographic regions of the Commonwealth of Pennsylvania;

Whereas the Council is mandated to study major issues affecting older Pennsylvanians;

Whereas pharmaceutical prices have dramatically increased as such, have adversely affected health care costs to older Pennsylvanians and to Pennsylvania's PACE Program;

Whereas Federal legislation has been proposed to contain prescription drug prices;

Whereas the Council unanimously supports the proposed Federal legislation: Be it

Resolved, the Pennsylvania Council on Aging unanimously adopts the following Resolution:

1. The Council recommends to Senator Harris Wofford that he strongly support Senate Bill 2000 introduced by Senator David Pryor on November 20, 1991.

2. The Council recommends that Senator Wofford co-sponsor S. 2000 and take further appropriate steps to control prescription drug prices.

FACTS COUNTERING DRUG INDUSTRY FICTION  
REGARDING RESEARCH AND DEVELOPMENT

U.S. SENATE SPECIAL COMMITTEE ON AGING,  
SENATOR DAVID PRYOR, CHAIRMAN, FEBRUARY, 1992

Background: Anytime Congress is critical of the enormous profit margins of the pharmaceutical industry, or questions the need for the industry to raise prices in excess of three times the rate of inflation, the industry argues that they need these exorbitant

profits and high prices to finance research and development. However, it is clear that their well-worn and re-recycled research and development argument is not going to sell anymore. Consider these facts:

Fact 1: Americans are already providing hundreds of millions of dollars in tax breaks annually for the industry's R&D investment.

Fact 2: According to a 1991 Forbes Magazine article, the drug industry is spending a billion dollars more a year on marketing than it is on research; that is, the industry will spend \$10 billion on marketing and advertising this year, but only \$9 billion on research and development.

Fact 3: After accounting for the investment in research and development, the pharmaceutical industry still earns an annual Fortune 500 industry-leading profit of 15.4 percent. This industry profit average is triple that of the average Fortune 500 club member, which is 4.6 percent.

Fact 4: The drug industry says it needs such profits to attract capital, yet they certainly do not need a return on shareholder investments (return on equity) that industry analysts say is completely consistently 50 percent higher than the average Fortune 500 company to attract capital. Other Fortune 500 companies, whose profit margins are one-third that of the drug industry, do not appear to have trouble attracting sufficient capital.

Fact 5: In addition to the hundreds of millions of dollars in direct research and development tax breaks given to the drug industry each year, a significant amount of research on new drug products occurs in federal facilities or with grants provided by federal agencies. For example, most of the research on the drug AZT, used to treat symptoms of AIDS, was conducted at the National Institute of Health (NIH), yet a private drug company holds the patent on the product and has used the patent to charge exorbitant prices for the drug.

Fact 6: The drug companies whose R&D investment has brought no new breakthrough drugs to market are the very same companies that are increasing prices at some of the highest rates. Therefore, while there are some drug companies who are research intensive, the majority are using the "research" argument as the excuse to raise prices, yet their research pipeline is dry. For example:

Dilantin (an antiepileptic drug) manufactured by Parke-Davis, has been on the market since 1953. Since 1985 it has gone up in price 69 percent, an annual average increase of over 11 percent. Parke-Davis has not brought one new molecular entity to market in the last 5 years.

Fact 7: For a pharmaceutical company that spends 15 percent of its revenue on research to increase their research expenditures by 10 percent, it would only require a 1.5 percent increase in their drug prices each year. However, drug manufacturers have been increasing prices, on average, at three times the rate of inflation for the last eleven years.

Fact 8: One of the largest investors in R&D in the industry—Merck—is holding their price increases to inflation. Merck Sharp and Dohme has been one of the most research productive companies over the last decade, yet they have adopted a public policy position that restricts their price increases to changes in the CPI-U. If the world's most research-intensive drug company can adopt this responsible public policy, the others should be able to do the same.

Fact 9: In Canada, the drug industry has voluntarily agreed to limit its price in-

creases to the inflation rate, while substantially increasing its investment in research.

While the industry's arguments about the relationship between high profits and research are clearly questionable, the "Prescription Drug Inflation Containment Act", introduced by Senator David Pryor, will not address the research tax credits of drug manufacturers. The legislation uses the industry's \$2 billion annual non-research and development tax credit, which is bestowed on the industry each year by American taxpayers, as an incentive to contain prescription drug price inflation at or below the rate of general inflation.

SENATOR PRYOR'S RESPONSE TO PMA'S  
"MYTH" SHEET AGAINST S. 2000

1. PMA says: "The Government reports that the Producer Price Index for prescription drugs in 1991 was, at 7.2 percent, the lowest since (it) began publishing it in 1980."

Pryor response: The PMA is distorting and blatantly misrepresenting the Producer Price Index (PPI) to defend its indefensible position. While the PPI for prescription drugs was 7.2 percent in 1991 and 8.1 percent in 1990, the PMA conveniently omits the fact that the PPI for all goods in 1991 was 0.0 percent and 3.7 percent in 1990. The truth, therefore, is that the disparity between the PPI for drugs and the PPI for all other goods actually and significantly widened in 1991. Moreover, from 1982 to 1992, the PPI-Rx increased six times the PPI-all goods (133 percent versus 23 percent).

2. PMA Says: "Drug therapy remains the most cost-effective form of medical treatment."

Pryor response: Whole drugs are sometimes less expensive than other medical interventions, they are not cost effective if they are unaffordable. Over 5 million Americans over the age of 55 now report that they are being forced to choose between needed medications and food. In 1990, over 10 percent of all U.S. health care expenditures—\$67 billion—were for pharmaceuticals. Without some form of cost containment, these expenditures are expected to increase to over \$145 billion by the year 2000.

3. PMA says: S. 2000 "would impose government price controls on pharmaceuticals."

Pryor response: By any definition, S. 2000 does NOT impose price controls. Manufacturers can price their products at any level they choose. The bill simply protects American taxpayers from being forced to underwrite both billions of dollars in high drug prices and non-R&D-based tax subsidies. The tax subsidy is only reduced IF a drug manufacturer continues to jack up prices above the general inflation rate. (From 1982 to 1992, the prescription drug inflation rate more than tripled the general inflation rate—142 percent versus 46 percent.)

4. PMA says: S. 2000 "singles out the \*\*\* (drug) industry for discriminatory and unfair tax treatment."

Pryor response: It is the drug industry that has been singling out the American public through their discriminatory and unfair prices. According to the HHS' Office of Inspector General, they discriminate against the American public by charging us prices that are 62 percent higher than those in Canada and 54 percent higher than those in Europe. Secondly, the legislation does not touch any drug manufacturer that keep its products' price increases at or below general inflation.

Finally, it is not only American-based drug companies that take advantage of the 936 tax credit. Foreign-based companies that have

American subsidiaries also form spin-off companies and relocate to Puerto Rico (e.g. Smith-Kline Beecham is a British-based company but has manufacturing operations in Puerto Rico). Therefore, in practice, S. 2000 fairly rewards companies who keep prices below general inflation and fairly punishes those who do not. It is a simple, business-like, carrot and stick incentives mechanism.

5. PMA says: S. 2000 would establish a "Prescription Drug Policy Review Commission. No one can predict what the proposed commission would recommend, but previous proposals by Senator Pryor have contained provisions for a Federal drug 'formulary,' and 'therapeutic substitution'."

Pryor response: First, the assertion that legislation previously introduced by Senator Pryor would establish a Federal drug formulary or therapeutic substitution is a BLATANT LIE, and the PMA knows this. In addition, like the Prospective Payment Assessment Commission and the Physician Payment Review Commission, the proposed Drug Commission would be made up of an objective body of experts on pharmaceuticals. Their final findings and recommendations would not be subject to approval by any Member of Congress. What the PMA is concerned about is that this group will actually make some recommendations that would contain the skyrocketing cost of drugs in the United States.

6. PMA says: "Canadian Government actions (to reduce drug costs) have led to sharply reduced R&D spending \*\*\*"

Pryor response: Just the opposite is true. Since the Canadian Patent Medicines Price Review Board was established in 1987, drug manufacturers have sharply increased R&D spending in that country. R&D spending increased by 50 percent between 1988 and 1989, and 15 percent between 1989 and 1990. R&D spending as a percent of sales is expected to increase to 10 percent by 1996. This has all occurred with a sharp drop in drug price inflation in Canada.

7. PMA says: "Several influential organizations \*\*\* have already spoken out against S. 2000 \*\*\*"

Pryor response: The number of organizations supporting S. 2000 far exceeds the number supporting the PMA position. Among the bill's growing supporters are: 12 United States Senators, 2 Presidential candidates, and 42 national organizations, including an impressive array of representatives of rural concerns, small businesses, the elderly, the children, the poor, special populations, health care personnel, insurance agents, and unions.

Mr. PRYOR. Mr. President, we have heard a great deal today in this debate about escalating health care. We have heard a great deal today about control, about discriminating against a very fine American industry. We have heard all of those. None of those arguments, Mr. President, were any surprise to me, and I doubt if any of the arguments I have made during the course of debate today has been any surprise to the opposition who want to see this amendment killed.

Mr. President, I would like to just return, if I might, to a statement I made earlier today that took us back, I guess, to the old town meeting. How many of us recently in the last year or 2 have been in those town meetings in our home States down there in our

home district when we have looked out there in that sea of people, and that elderly individual stands in the back of the crowd and says, "Senator So and So, what are you going to do about my prices on prescription drugs?" "Senator, what are you going to do about this escalation of cost? I can no longer afford my drugs." "Mr. Senator, what are you going to do when I have to choose now between paying for my prescription drugs or paying for food for my table?"

And generally, Mr. President, because we are politicians and we want to try to appease most people and make them as happy as we can, most of the time, if we do not do it directly, we are saying indirectly to those people, those constituents of ours: "We are going to do something about that. We are going to tackle this problem. We are going to address this problem. We are going to deal with your hurt. We are going to deal with this problem of escalating drug costs."

Mr. President, not since I have been in the Senate in 13 years have we had the opportunity on the floor of the Senate of the United States to cast a vote on whether we are serious about that commitment or not.

Last night, I was watching Gov. Bill Clinton. I was very proud of our Governor from Arkansas. He had great success in those primaries across the South and other parts across the United States. And I heard Governor Clinton say something that struck me that almost applied, in one respect, I guess, to this debate that we are having today on this issue of escalating health cost. Mr. President, our Governor said, "You know, people are getting tired of politicians who never deliver on their promises."

Mr. President, today is an opportunity for us to begin delivering on the promises, begin delivering on the promises to America, delivering to our constituents who we have promised we are going to help to do something about containing the health costs of our country.

This is not hospitalization. Once again, this is not doctors. This, Mr. President, as all of us know, is one small part of the health care crisis, and that deals with the cost of pharmaceutical drugs. Mr. President, several individuals today who have attended this debate and who have participated in this discussion this afternoon have read letters from some of their constituents. I have some thousand letters, I guess, or maybe more. I do not want to hold them up. In fact, I think I am too weak at this time of day to pick up that big bag of all those letters. Just if I could, I will read a statement from one or two that I think might present a case in point.

This is a California letter, February 1992. He said, "Last week when I picked up my prescription for Feldene, I was

shocked and angered to discover that the cost had increased 100 percent, from \$38 to \$67."

Mr. President, we have letters from all over the country. Here is one that says that her cost for the drug that she is taking for Parkinson's disease went up recently. It is now \$1.21 a pill. It was, just a month ago, \$1.01 a pill.

Here is a lady writing from Los Angeles, CA: "Dear Senator PRYOR"—she talks about herself and her husband. She says she is 87 years old. "My Social Security payment no longer covers the cost of my prescription drugs."

Here is a letter, Mr. President, from a lady down in Arkansas. She said, "Senator PRYOR, I really cannot afford my drugs anymore. I am 74, on Social Security. I get \$660 a month. I live in subsidized housing and no longer can pay the cost of the drugs that my doctor prescribes for me."

Here is a letter from Weatherford, TX, in favor of putting a cap on, she says, doing something or anything to control the cost of prescription drugs.

Here is a letter from New Jersey, September 27, 1991. She says, "Our drug prices in our family for my husband and I have tripled the first half of 1991. No longer can we buy our drugs." She said, "On September 7, I had to fill these two prescriptions. I had to pay \$197.47."

A letter from Florida, "The problem, as you can see by the attached price list, Senator PRYOR, even trying to get at the less expensive drug stores, is \$108.81 a bottle for 100 tablets."

"Senator PRYOR, my drugs last year were \$7. Today, they have gone up to \$41. What can I do about this situation?"

But one letter is very telling, Mr. President, because of the arguments that we have heard today about Government intervention, about price controls, about Government intervening in this great industry. But I would only read the last sentence from a lady who wrote that her drug bill today has gone from \$8,076 a year to \$11,216 a year, just in the course of 12 months. And she writes a final sentence, Mr. President: "Which ones do I quit taking now? If I stop taking any of these drugs, I will either be bedridden or I will die. Please ask your fellow Congressmen and Senators to choose for me."

Mr. President, that is where America is today. They are bewildered because we are not doing anything and because all we do is address the problems. I think that our constituents are tired of our addressing the problems. I think that our constituents today want us to start solving some problems. And that is exactly why, Mr. President, I bring this amendment to the floor at this time on this particular bill, because it is time that we solve this problem. We will not solve it all, but it will begin, it will be an attempt in reaching a solution to this problem relative to the high costs of prescription drugs.

Mr. President, in speaking and looking at this particular issue of prescription drugs, in all due respect to Secretary Sullivan, whom I like very much—he came out yesterday with this Health and Human Services legislative alert. I have already mentioned this earlier today in the debate, Mr. President. It says the administration opposes this bill. It is going to recommend that it be vetoed if this amendment is included in the bill.

Secretary Sullivan—and I have watched him in several committee hearings—when he has been asked about what this administration plans to do about prescription drugs—I wish that our colleagues would go back and research the records a little bit. I wish they would see what Secretary Sullivan has said this administration is going to do, because it amounts to absolutely zero.

Mr. President, also, this afternoon at the close of this debate, I have a challenge to the Presidential scholars of America. I would like to see if the Presidential scholars who follow the Chief Executive, who write down his every word, who record every statement, I would like to see if, in 3½ years of his Presidency, our Chief Executive, the President of the United States, George Bush, has ever mentioned the words "prescription drugs."

I do not think that he has. I do not think he is aware of it. He, for the last 13 years, has not had to pay for his prescription drugs. He gets free drugs. Therefore he has no idea what the cost of those drugs might be.

Our good and dear colleague from the State of Utah just mentioned AZT. Let us talk about AZT. Sure, it is going to, hopefully, have some helpful effect or impact on AIDS. Let us talk a minute about where AZT was developed.

AZT was developed, not by the drug companies—AZT was developed and researched at NIH. The taxpayers of America developed AZT. Then we gave it to another drug company and today they are charging \$2,000 and \$3,000 a treatment for AZT.

What kind of a cozy relationship is that? And what kind of a fair deal is that for the American consumer? What in the world is going on when the drug companies of this country go unchecked; when there is no accountability; when we ask no questions; and when we say to them, for every bit of research you are going to do, through our Tax Code, through the policy of this Government, we are going to make sure that your research is paid for?

Mr. President, I yield 2 minutes to my colleague from the State of Tennessee, Senator SASSER, and retain 2 minutes of the remainder of my time.

The PRESIDING OFFICER. The Senator has 2 minutes and 18 seconds left. The Senator from Tennessee is recognized for 2 minutes.

Mr. SASSER. Mr. President, I want to sincerely compliment the distin-

guished Senator from Arkansas [Mr. PRYOR] for the fight he has made on the floor of the U.S. Senate today on behalf of those tens of millions of Americans who consume prescription drugs.

It has been a long, lonely battle for the Senator from Arkansas now, for almost 2 years. He had some help along the way from his colleague and ranking member on the Special Committee on Aging, Senator COHEN. I want to say that had it not been for their efforts, we would not be debating this issue today. This amendment today, I think, sounds as a wake-up call—a wake-up call for our colleagues about what is happening in the field of prescription drugs. Had it not been for the efforts of the distinguished Senator from Arkansas, I do not think that wake-up call would have gone out from this place.

This is not an entirely new issue, but it is an issue now that is bubbling up from the grassroots. It is represented in every town meeting that any of us hold. It is represented in the letters that we receive, as the distinguished Senator from Arkansas has stated here today. It is an issue that will not go away. No matter what happens to this amendment today, this issue is going to be with us.

Yes, there are responsible drug manufacturers. Yes some of them do try to price their products reasonably. But by the greed of some, they have killed the goose that laid the golden eggs.

The PRESIDING OFFICER. The Senator is advised that his 2 minutes has expired.

Mr. SASSER. Mr. President, I will yield to my friend from Arkansas, but I want to express my appreciation for this fight he has made here today. I think it is very worthwhile. If he does not win today, I want to join efforts with him to bring this back again and again and again, until we are successful.

Mr. PRYOR. Mr. President, I thank my colleague.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for an additional 12 seconds.

Mr. PRYOR. Mr. President, I ask unanimous consent for 1 final minute please?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I thank the Chair and I thank my colleagues for giving me this 1 minute to close. I thank my colleague from Tennessee.

We have heard so many percentages around here today that even I am dizzy. All of us are a little bit dizzy. Our friend from Utah has all of these charts: 5.8 percent, 7 percent of GNP; health care, 7 percent; all of these things that really make us a little bit dizzy.

The final analysis is this: Forget all the percentages, Mr. President; forget all of that. Forget all we have heard,

this, that and the other, comparing prices.

The fact is our people are hurting today; they are desperately hurting and everyone in this Chamber knows it. This is the time to begin doing something about it. This afternoon we are about to have a vote, in a very few moments, the first vote we have had on cost containment for health care. I hope it will be a positive vote, Mr. President. If it is not, I will continue in this endeavor, to try to see if we cannot make some degree of common sense together, out of a drug industry that is out of control.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Utah is recognized for 18 seconds.

Mr. HATCH. Mr. President, I hope our colleagues will vote against this amendment. It is regulation, pure and simple. It will stifle economic opportunity in this country and stifle one of the truly great competitive industries of this country to the detriment of us all. I hope our colleagues will vote this down.

The PRESIDING OFFICER. The time of the Senator from Utah is expired. The Senator from Texas is recognized for 5 minutes.

Mr. BENTSEN. Mr. President, there is no question but what the high cost of prescription drugs is a serious problem for the elderly and for the chronically ill. I can recall, back in 1990, how impressed I was with the work of the Senator on the question of Medicaid prescription drug rebates, and was delighted to work with him. But I do not think this amendment is the cure we are seeking. I am troubled by several aspects of it.

There is no question in my mind, it is an attempt to use the Tax Code to control prices. If you start down that road, where do you stop? Do we deny tax deductions to banks where we think the interest rate happens to be too high?

I can recall one day when the President of the United States made some remark about consumer credit card interest rates being too high. That night here in the Senate we had an amendment that was passed to put a cap—brought it down—on the interest rates on credit cards. It passed by a vast majority here. And the next day we had chaos in the stock market. The stock market went down 120 points. And the Senators could not wait to drop it in the conference, and we all wished it had not been a recorded vote.

You cannot set prices, controls, and expect them to work and use the Tax Code for that purpose.

This is aimed at the drug companies but you have a ricochet problem in this one. It could bring about significant harm to Puerto Rico's economy. The possible effect of this is that you would

have these pharmaceutical companies moving out, going to some foreign tax haven. In this kind of situation, I think it much better to have the Puerto Rican working than to have some foreigners working.

I have another problem with it. I think it creates a very complicated formula and, in creating that one, I think it makes it very difficult for a business to anticipate its taxes and to set its budget, and complicates the process substantially.

The pharmaceutical companies that are going to be affected by this are just ours, United States ones. You have foreign companies that are also operating in Puerto Rico. They would not be touched by this process, and that concerns me.

Then I look at the drug policy review commission that is being set up in this. This is not related to any specific Medicare benefit as are the other existing commissions that we have. The other ones, like the prospective payment assessment, that commission is for hospitals, parleyed benefits. The physician payment review commission—all related to specific Medicare benefits. But not this one. And, therefore, I really do not think that the Medicare trust funds should be used to finance it.

The health care cost commission that is established under the Finance Committee bill that we have before us would fill the same functions as set forth in this amendment. So I think you would have a duplication of services there.

So, Mr. President, with a great deal of respect for the compassion, concern, and knowledge of my friend from Arkansas, and his leadership on issues of health care, I oppose this amendment. I think it would be a mistake to pass it.

Mr. President, I yield my time.

Mr. LUGAR. Mr. President, I rise today to speak in opposition to S. 2000, which is being offered as an amendment to the pending bill. This measure, which seeks to contain the costs of prescription drugs, has serious, adverse implications for the competitiveness of our Nation's pharmaceutical industry.

The price controls intimated by this approach have been found counterproductive in other countries. The European Community [EC] is asking its member countries to abandon such price controls because, "they have contributed to making the pharmaceutical market more rigid by neutralizing competition."

According to a recent report by the International Trade Commission, the United States leads the world in this high-technology enterprise. U.S. firms pioneered 62 percent of the new drugs introduced over the past 50 years, and currently account for some 40 percent of the \$150 billion in worldwide sales of prescription medicines. That is a share equal to that of all of Western Europe,

and twice as large as Japan's. In addition, the study reports that this industry has consistently maintained a trade surplus—projected at \$1.2 billion for 1991.

The International Trade Commission report goes on to detail the negative effects of cost-control programs in other countries on their pharmaceutical industries stating, "No country that has practiced cost containment in health care at the expense of its pharmaceutical industry has managed to nurture a pharmaceutical industry that can compete globally."

Mr. President, I believe that we should take heed from the experiences of other nations that have sought to abandon the free-market system in the pricing of prescription drugs. Most of the cost-saving, life-extending therapies in use today were developed by an industry seeking profits in a free, competitive market. Countries such as Canada, often cited for holding down prices through controls, have significantly less drug innovation.

I can well understand the push for action in this area. We all know that one of the major considerations of this body in the coming several years will be health care reform. Health care costs have risen significantly for a variety of reasons, including increased liability costs, third-party payment systems that leave the consumer out of the equation, and an aging population.

Attempting to control drug prices as a potential solution is a political temptation, but shortsighted public policy. I suggest that we must be much more farsighted in our approach. Historically, drugs have reduced the cost of health care and illness by replacing less effective, more expensive therapies—prescription drugs save money as well as lives.

There are ways we can work to reduce the cost of medicines. It currently takes 12 years to get a drug approved by the Food and Drug Administration [FDA]. We could cut the average cost of developing a new drug, some \$231 million, by streamlining the approval process to a situation similar to that of European nations. Additionally, strengthening intellectual property protection worldwide would go a long way in eliminating the \$5 billion our pharmaceutical companies lose each year at the hands of foreign patent pirates. And, finally, to fight effectively, the bane of all industry in our nation—we must enact product liability reform legislation.

Mr. President, I hope my colleagues will step back and take a good, long look at what we are being asked to do today. Even if the price controls suggested by S. 2000 are considered by many to be the way to go in containing costs in this area, we should at least give the Finance Committee the chance to review this proposal and consider the competitiveness implications I have suggested.

Let's not chip away at the effectiveness of an industry topping Fortune magazine's list of key, competitive industries in our Nation without due consideration. I urge my colleagues to join me in opposing this amendment.

Mr. JOHNSTON. Mr. President, I share the Senator's concern for the precipitous rise in the cost of some drugs; however, I strongly object to this amendment because the proposed trust fund would be financed through reductions of the possessions tax credit, the so-called section 936 tax credit.

This amendment inappropriately links together two entirely separate policy problems which currently confront our Nation: the problem of skyrocketing drug costs, and the political and economic relationship between the United States and the millions of U.S. citizens who live in the territories, particularly in Puerto Rico. The second problem is one that I, as chairman of the Energy Committee, am very familiar with, but which the Senate rarely considers.

I object to this amendment because little consideration has been given to the impact it will have on the economy and politics of Puerto Rico. The possessions tax credit is the foundation, the very lifeblood, of the economy of Puerto Rico. It is irresponsible to consider this amendment before its impact on Puerto Rico's economy is analyzed.

The people of Puerto Rico are not responsible for skyrocketing drug prices, but they are the ones who will lose jobs if drug companies decide to curtail investment or relocate overseas. This amendment may be a rifle shot aimed at drug companies, but it is innocent workers in Puerto Rico who will be hit by the ricochet.

Mr. President, over the past 2 years, I have sat through numerous hearings and debates on legislation to provide the people of Puerto Rico with input into their relationship with the United States, and I have heard a lot of talk about colonialism and about how Congress does not consider the impact of its actions on our Nation's island possessions. This amendment is an example of such indifference. It's very easy to ignore this amendment's impact on Puerto Rico, and to have the island pay the cost of its implementation. After all, Puerto Rico has no representatives in this Chamber.

I believe this proposal should be the focus of hearings, not only in the Finance Committee to examine and consider its tax implications, but also in the Energy Committee, to examine and consider its implications for the economic and political relationship between the United States and Puerto Rico. For example, I doubt that any of my colleagues have considered that a vote for this amendment will be viewed in Puerto Rico as a vote for Puerto Rican statehood. The possessions tax credit is not consistent with statehood,

so any effort to reduce the credit is often supported by the statehood interests. Is that an intention of this amendment, or just another of its unintended consequences?

Let me make it clear that I have no objection to reviewing the possessions tax credit. The credit should, like all programs, be regularly reviewed to assure that it is meeting its objectives. My objection is to changing the credit—a program of critical importance to our island possessions—in a floor amendment regarding an essentially unrelated topic. Why does this amendment target only those drug industry operations in Puerto Rico? What about drug operations stateside? Is it acceptable for drug companies outside of Puerto Rico to unfairly raise prices? What if a plant is in Ohio, or Mexico?

On March 2, 1992, the incoming Congressman from Puerto Rico, ANTONIO COLORADO, wrote to Senator PRYOR stating his support for the Senator's effort to control drug prices. However, he also expressed his concern regarding its impact on the island. He urged the Senator to modify the proposal so as to hold Puerto Rico harmless, and thus avoid the likely loss of jobs and the flight of pharmaceutical companies overseas.

I am concerned that the mechanism utilized to penalize pharmaceutical companies for increasing prices of prescription drugs currently incorporated in S. 2000 would harm Puerto Rico's economy. Indeed, any sanction reducing the section 936 tax credit would create an incentive for pharmaceutical companies currently in Puerto Rico to relocate to other foreign jurisdictions, such as Singapore or Ireland, resulting in both a loss of jobs for U.S. citizens, loss of U.S. exports, and no curb on drug costs.

I would like to associate myself with the remarks of the Congressman, and I will ask that a copy of his letter be placed in the RECORD.

On March 9, the Governor of Puerto Rico also sent a letter to Senator PRYOR, as well as to Chairman BENTSEN, expressing his objection to this amendment because:

\*\*\* it puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of the most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustenance of the Commonwealth's economic development.

I will ask that the full text of the Governor's letter be made a part of the RECORD.

Mr. President, I urge my colleagues to oppose this amendment. We all are deeply concerned about skyrocketing drug prices. However, this amendment will have unknown, unconsidered, and I assume, unintended consequences on the economy and people of Puerto Rico. It should not be enacted with these flaws.

I ask that the material to which I earlier referred be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,  
San Juan, PR, March 2, 1992.

Hon. DAVID PRYOR,  
Committee on Finance, Washington, DC.

DEAR SENATOR PRYOR: The Prescription Drug Cost Containment Act of 1991 (S. 2000) which you introduced last year addresses a serious and escalating social problem in America: the rising cost of prescription drugs. Puerto Rico shares your concern over the cost of prescription drugs for U.S. citizens. Indeed, this issue is perhaps even more acute for U.S. citizens residing in Puerto Rico because of the absence of full Medicare and Medicaid benefits, and an unemployment rate of 17 percent and a per capita income of one-third of Mainland residents. Accordingly, I strongly support the Act's provisions that would establish a Prescription Drug Policy Review Commission to monitor and review the activities of the pharmaceutical industry. I believe that a thorough study of the pricing policies of the pharmaceutical industry is desirable, and that Congress should consider whatever legislative recommendations emanate from that study.

As we discussed at our meeting last Friday, it may well be that there are more effective ways of attacking the rising costs of ethical drugs than through the Internal Revenue Code. If the solution is to use the tax laws to deter behavior of the pharmaceutical companies which is deemed undesirable for the general welfare of the United States, however, I believe a more neutral tax mechanism could be devised than that contained in S. 2000.

I am concerned that the mechanism utilized to penalize pharmaceutical companies for increasing prices of prescription drugs currently incorporated in S. 2000 would harm Puerto Rico's economy. Indeed, any sanction reducing the section 936 tax credit would create an incentive for pharmaceutical companies currently in Puerto Rico to relocate to other foreign jurisdictions, such as Singapore or Ireland, resulting in both a loss of jobs for U.S. citizens, loss of U.S. exports, and no curb on drug costs.

Instead, perhaps a broad-based sanction, such as a tax imposed on profits earned with respect to drugs whose prices have escalated, could be more effectively used to address the rising cost of drug prices without harming Puerto Rico. I urge that such a sanction be examined to address the goals that we mutually seek.

I look forward to working with you to achieve the goals of your legislation.

Sincerely,

ANTONIO J. COLORADO.

OFFICE OF THE GOVERNOR,  
San Juan, PR, March 9, 1992.

Hon. DAVID PRYOR,  
U.S. Senate, Washington, DC

DEAR SENATOR PRYOR: On March 2, Congressman Antonio J. Colorado, then our Secretary of State, wrote to you to express his views on S. 2000, the "Prescription Drug Cost Containment Act of 1991." As Governor of the Commonwealth of Puerto Rico, I would like to state clearly our Government's position on that bill.

As Congressman Colorado indicated, the U.S. citizens of Puerto Rico share your concern about the rising costs of health care. As you know, we have very limited participation in the Medicaid program and receive lower reimbursement rates under the Medicare program. Furthermore, our per capita income is half of that of the poorest state of the Union while medical costs follow closely that of the States. Our need for affordable

health care is therefore of primary concern to all Puerto Rican citizens.

Nevertheless, we strongly object to the intrusive approach embodied in S. 2000. In an effort to control the price of drugs, S. 2000 puts in jeopardy the presence of the pharmaceutical industry in Puerto Rico, one of the most important components of Puerto Rico's industrial sector that has proven to be crucial for the sustenance of the Commonwealth's economic development.

Over the past 40 years, Section 936 has been the backbone of the Island's remarkable economic development. In spite of the growth accomplished, Puerto Rico continues to lag substantially behind the mainland, suffering from a current unemployment rate of more than 17 percent. Using the 936 economic development program as a device to control one segment of the rising cost of health care would lead to the relocation of manufacturing operations abroad, from where they would not be penalized. The end result will be the further loss of jobs of U.S. citizens.

The pharmaceutical industry has made a special contribution to Puerto Rico's human and economic development. Not only has the industry invested heavily in plant and equipment, but it has employed, trained and promoted to the highest ranks of management over 20,000 of our citizens. The industry has played a significant role in the consolidation of a stable middle-class in Puerto Rico, providing its employees with the highest wage and benefit compensation available in our manufacturing community. Likewise, this industry has stimulated the growth of our locally-owned businesses, by leading the way in purchases of goods and services from local suppliers, with a high multiplier effect on additional jobs all over the Island.

Puerto Rico has not been the only beneficiary of the Section 936 relationship with the pharmaceutical industry; the U.S. mainland has benefited as well. The pharmaceutical industry is currently responsible for the largest share of Puerto Rico's exports outside the mainland, making an important contribution to the United States' balance of payments. In addition, revenues that are repatriated to the U.S. have enhanced the research and development capabilities and thus the international competitiveness of U.S. pharmaceuticals.

We believe that S. 2000 wrongly penalizes Puerto Rico's crucial development program in an attempt to artificially control market forces through the Internal Revenue Code. It is our belief that, rather than instituting a penalty mechanism over one segment of the health industry, any policy option should address the root causes of the overall health care system.

Cordially,

RAFAEL HERNANDEZ COLÓN.

Mr. SIMON. Mr. President, I want to be sure the pharmaceutical industry in the United States continues to lead the world in the development of new and needed drug products. We have a great stake in making sure this sector of our economy remains innovative and competitive. There are new drug therapies in development that can improve our lives in dramatic ways: Treatments for AIDS, cancer, Alzheimer's disease, arthritis, and terminal and chronic diseases. I do not want to slow the progress being made on these breakthrough treatments. I do not believe this amendment will affect that progress.

If we look objectively at the profits of the drug industry today and then at the amounts of taxpayer subsidized credits we are providing through the section 936 provision, the picture is amazing. We have one of the most profitable industries in the United States getting one of the largest industry specific subsidies we provide through our tax system. And when we see that the same products marketed in the United States at one price are sold in other countries at much reduced prices, it looks as if the U.S. taxpayer and consumer is paying a premium not just for the support of research on new drugs but to subsidize lower drug prices in nations that control their prices of drugs.

It is important to note about this amendment that it does not remove entirely the tax credit incentive to create jobs in Puerto Rico. This approach may not be the most efficient way to address the overall drug price problem, but it is a way to use a carrot-and-stick approach to bring down some of the costs of prescription drugs.

A few minutes ago I had a call to my office from one of my constituents who has to take a prescription drug on a regular basis. To take the dosage his doctor has prescribed would cost \$150 a month, an amount this man cannot afford. He is taking just half the prescribed dosage and has not been willing to admit to his doctor that he can't afford to take the full amount. It is good that lifesaving and life-extending drugs are available. But if you cannot afford the drug, it is not going to benefit you. If you have to make choices between the drugs you need and an adequate diet, or heat or electricity, the drug may not be of much help to you. We have an increasing inequity in access to drugs and a growing burden on low-income, uninsured, and elderly Americans. We need to address this problem.

In reality, although this amendment may help, we need more than this amendment. We need comprehensive reform that includes across-the-board cost controls for all parts of the health care system.

It appears this amendment is not going to be approved, but voting for it is a way to send a couple of messages to the pharmaceutical industry. First, as some leaders in the industry are becoming now—and I'm pleased to note that some of those leaders such as Searle are Illinois-based—the industry as a whole needs to be much more responsive to the concern about drug prices. They should no longer assume they can indefinitely raise prices without limits. Second, I want to signal by my vote for this amendment that the pharmaceutical industry and other recipients of the section 936 tax credit should not stand in the way of plebiscite in Puerto Rico on statehood.

Mr. President, some who oppose this amendment have mentioned the im-

pact a reduction of section 936 tax benefits would have on the people of Puerto Rico. I do not want to see the people of Puerto Rico used as a pawn in this debate. I do not mean to indicate this is being done by any of my colleagues. But whenever we talk about statehood for Puerto Rico, it is the same section 936 companies that say that first-class citizenship for Puerto Ricans living on the island is not in their best interests.

When we had legislation in this Congress and the previous Congress to authorize a plebiscite for Puerto Ricans living on the island, so they could have a say on their status, it was the section 936 companies, including those in the pharmaceutical industry, that hampered our efforts.

In a perhaps subtle way, they made clear to those active on the plebiscite issue that statehood would mean the end of section 936. Both here and on the island, they tried to hold jobs for Puerto Ricans virtually hostage—leaving Puerto Ricans with the choice of livelihood or citizenship. No Americans should be forced to make that choice. I am not at all convinced that the section 936 companies have anything but their own interests, and not the interests of the people of Puerto Rico, at heart.

I will vote for my colleague's amendment in the hope that it will move us in the right direction on both drug pricing and the ability of the people of Puerto Rico to decide their future.

Mr. WOFFORD. Mr. President, I want to make a short comment on Senator PRYOR's amendment to the tax bill pending before the Senate. I am voting for this amendment, knowing that it is very unlikely to pass the Senate and despite the fact that I believe it is an imperfect, even flawed measure.

I cast this vote today in the hope it will serve as a warning to our pharmaceutical companies. It warns those companies that they cannot continue to raise their prices out of proportion to the growth in the economy and in a way that fuels the increase in health care costs. The sizable vote in favor of this amendment should encourage drug companies to think again and to act anew with respect to their pricing practices.

At the same time, I must point out some of the serious concerns I have about this amendment. The measure singles out certain drug companies that have legitimately availed themselves of a Federal incentive program to assist the development of Puerto Rico. It leaves out drug companies that have not invested in Puerto Rico and that should not be left out of a prescription drug cost-control effort.

Controlling the cost of prescription drugs must be a part of comprehensive reform of our health care system. But when we act to control the rise in the cost of drugs, we must do so fairly and equitably, and I hope without setting back the progress of Puerto Rico.

I am also concerned that it would be easy to avoid the effects of this amendment. The formula imposed would apply to companies that take advantage of the section 936 incentive program. I am concerned that after companies have recouped their investments in the Commonwealth, they would seek out new areas to locate, and then to raise their prices once again. Then consumers would not be helped and Puerto Rico would be hurt.

I hope that when we turn to the hard work of comprehensive health care reform, we will design real cost-control mechanisms that contain all health care costs, including the costs of prescription drugs. I urge my colleagues to hasten the day when we begin this work.

Mr. LIEBERMAN. Mr. President, I rise today to oppose the Senator from Arkansas's amendment. I do this after careful thought and consideration, since there is no one that I respect more than my colleague from Arkansas. In fact, I want to take a moment to applaud his efforts to get the health industry to be more responsive to consumer concerns, particularly those of the poor and elderly, about rising costs.

But I want to note that a number of pharmaceutical firms have indicated that they will voluntarily limit price increases on prescription drugs. The Omnibus Budget Recovery Act of 1990 already requires companies to provide rebates to State Medicaid programs, reducing the cost of pharmaceutical products for many low-income Americans. This will save Medicaid an estimated \$580 million this year.

Senator PRYOR has made important efforts to make the health industry more responsive to rising costs, and without him some of these initiatives may not have come to pass. Although I applaud his hard work, I cannot support this amendment. I have three primary reasons for reaching this decision: Much of what the Pryor amendment is intended to achieve could be achieved through other means; this is not an effective way to control health care costs; and this industry is key to our national competitiveness.

As I mentioned, the pharmaceutical industry has already begun to respond to cost escalation and its effect on the consumer. As long as the industry is willing to work with Congress and the consumer, then it would be counterproductive to impose controls that could otherwise damage a highly competitive American industry.

Just as important, singling out the pharmaceutical industry is not the best way to contain rising health care costs. Whatever program we finally implement to deal with our Nation's health care cost dilemma must be comprehensive, not industry specific. We have a set of closely interrelated causes interacting here, and proceeding piecemeal will not solve this problem.

In fact, the actual cost of prescription drugs has risen at a slower pace than other health care costs. Since 1965, the share of U.S. gross national product consumed by health care has doubled from 6 to 12 percent. During that same period, the amount of money spent on drugs as a percentage of GNP has remained constant at 1 percent. And drug costs have actually declined from 8 percent of total health care costs to 5 percent over the same period.

It is also useful to note that pharmaceutical firms, to a much greater extent than much of U.S. industry, pour their profits back into advanced research. This is not money lost to the consumer—new drugs often ultimately help to contain costs. For example, if a new drug is found to cure AIDS, then not only will there be a considerable benefit to humanity, we also stand to save millions, perhaps billions, in health care costs. Prevention is a critical effort we must expand to contain health care costs, and new drug products are a key to effective prevention, as well as treatment. It does not make sense to inhibit this productive research.

The Canadian-style commission established by the amendment would be a first step in the implementation of price controls. Under this system, Canadian firms have produced a paltry number of new drugs in comparison to their United States counterparts. That is because there is no incentive to undertake the expense of developing a new pharmaceutical product. It costs approximately \$231 million to bring a product to the U.S. market, and only 1 in 5,000 products can be marketed commercially.

Perhaps the most compelling reason to oppose this amendment is that by doing so, we would be undermining one of the most competitive American industries. A recent article in *Fortune* magazine, rating 13 key American industries on their international competitiveness put pharmaceuticals at the top. This is an American industry that competes favorably against firms from all over the world, where the key research in the field is actually taking place in the United States, and where new jobs are being created. Before we move to impose price controls on this industry and threaten those jobs we should much more carefully examine whether we will be inadvertently harming its innovation and competitiveness.

The pharmaceutical industry employs over 10,000 people in my State, and these are high-paying, high-skill jobs. One company—Pfizer—is even expanding in Groton, a city which is being devastated by defense cuts. It is not in our best interest to hurt an industry that is creating new jobs and economic growth at a time when States like mine are going through the most difficult economic times since the depression.

One fact is not in dispute: The American pharmaceutical industry is one of our most competitive. We can no longer say that about our electronics industry, our auto industry, our computer industry. We can't afford to risk undermining one of the stars of American industry.

Mr. President, the world has changed dramatically in the last 10 years. We are entering a new era of intensifying global competition. Would our competitors try to restrict one of their most competitive industries through additional regulation and control? Of course not. Yet that is what we are being asked to do with this amendment and why we should reject it.

Mr. WALLOP. Mr. President, I rise to oppose strongly the amendment by the Senator from Arkansas. This amendment is not about whether any Senator supports lower prescription drug prices or not. Rather it is a back-ended effort to impose across-the-board price controls on the pharmaceuticals industry at the expense of job-producing, revenue-producing operations in Puerto Rico.

The Finance Committee, on which I have served, reexamines section 936 almost every time they consider changes in the Tax Code, entertaining all sorts of requests to tamper with or refigure this section in some fashion. But the Finance Committee has been extraordinarily careful to make changes so as to avoid a massive ripple effect throughout Puerto Rico.

CBO's calculation of the effects of this tax change demonstrates their inability to track the economic ripple effect of tax policy. Human beings and the companies they run are not automata; they respond to changes in tax policy. This legislation introduces such great risks into the maintenance of section 936 status for pharmaceutical companies that many will be inclined to simply move their operations elsewhere, to places like Ireland or Singapore.

Revenues from section 936 operations in Puerto Rico finance public works projects—roads, schools, and other infrastructure. Moreover, section 936 has created 115,000 direct jobs in the possessions affiliates of mainland corporations. An additional 200,000 indirect jobs have been created by the presence of 936 corporations. These are highly compensated, sought after jobs for the U.S. citizens of Puerto Rico who, if unemployed, would be eligible for Federal social welfare benefits.

Pharmaceutical companies, the target of this legislation, directly employ nearly 20,000 workers in their Puerto Rico operations and indirectly generate an estimated 80,000 jobs in other sectors of Puerto Rico's economy. Changes in a company's section 936 status would put these good jobs at risk, increasing Puerto Rico's already high unemployment rate of 16 percent. This

increased unemployment in Puerto Rico would almost certainly offset whatever positive results this legislation claims to affect.

Finally, this amendment would require that the Federal Government regulate the prices of prescription drugs. In the past, similar attempts at price regulation by the Government have been dismal failures. It goes without saying that any changes in this law should be made after careful consideration and analysis by the Finance Committee, and after hearings have been held, and not in a whimsical fashion on the floor of the Senate.

Mr. SANFORD. Mr. President, I commend the chairman of the Senate Finance Committee, Senator LLOYD BENTSEN, for his leadership in bringing together a tax reform package designed to promote economic recovery. This bill represents a balanced approach—which is fully paid for—to give needed incentive for both short-term and long-term growth.

There is a temptation to add a great many amendments to this package, and the first call indicated there might be as many as 75. Obviously, if we are going to get this job done, this urgent necessity for renewing the economy, we need to focus on the task before us, and must lay aside all other desirable legislative goals that we might be tempted to promote along with this effort. This is too important a goal to be clouded by other matters. The bill must pass in a clear-cut form that the President can sign or clearly reject, based on reasons relating to the economy, not to some peripheral amendment.

Accordingly, I assured the leadership that I will oppose amendments that do not strengthen the economy.

In the same vein, I must vote against Senator PRYOR's amendment to attach his drug price bill to the economic revival bill.

Certainly, I am in favor of bringing down the cost of medical care, including the cost of drugs. Unfortunately, Senator PRYOR's bill may not accomplish this. At best, it freezes prices at present levels, plus cost of living. At worst, it could increase the price of newly developed drugs. According to statistics put together in support of the Pryor bill, the prices for drugs in the United States are far too high compared to similar prices of the same companies in foreign markets. However, I think we need to address this issue in the context of international trade agreements and patent protection efforts, not in the isolated context of this amendment. Furthermore, the Pryor amendment does not cover all of the drug companies, but only those who are doing some of their manufacturing in Puerto Rico. This seems to me to be an inadequate way to get at the real problem of pharmaceutical costs.

I intend to work diligently to find ways to contain all of the costs of medicine, including prescription drugs. Certainly this burden is tremendous, but it strikes me that we should not confuse this important issue right now, with our need to do something about economic recovery, and when we address the problem of high drug prices we ought to do it in a more comprehensive and effective manner, one that looks at other aspects of health care as well.

I would like to commend Senator PRYOR for his intentions, but I do not believe that it is appropriate for this piece of legislation to pass at this time in this form.

I think Senator PRYOR has made a very valuable contribution in bringing attention to the issue of drug costs. Already a number of pharmaceutical firms have voluntarily pledged to conform, to hold price increases to increases in the consumer price index. For that, these firms are to be commended and the others should be encouraged to do likewise. In thanking Senator PRYOR for his efforts, I would also like to pledge to him my willingness to work with him to bring about some needed changes to this bill to make it more comprehensive and more workable.

Mr. BAUCUS. Mr. President, I am pleased to rise today to address this important amendment on prescription drug prices. Senator PRYOR, the distinguished chairman of the Aging Committee, has worked on this issue for months, if not years.

It is a tough problem he is tackling. Prescription drugs are expensive—but they are also worth their weight in gold. For people who depend on medicine to treat or control medical conditions, prescription drugs are a matter of life and death. But the price is awfully high.

Hardworking Americans, as well as senior citizens, are having a harder and harder time buying their prescriptions. The prescription drug inflation rate rose 152 percent in the 1980's, compared to the general inflation rate of 58 percent. As the price goes up on the order of 10 percent a year, and CPI increases less than 3 percent, consumers have less buying power.

But people need those medicines, so they pay the price. And they just have to make sacrifices elsewhere.

The problem is even more acute, in that American consumers are subsidizing the drug industry for consumers in other countries. The average American pays 62 percent more for the prescription drugs than the average Canadian citizen, and 54 percent more than the average European citizen.

Mr. President, there is no single, simple solution to the prescription drug dilemma. For one thing, the U.S. drug manufacturing industry is one of our most competitive industries in the

world market. Developing new drugs is a long, expensive, labor-intensive process. We cannot expect miracles. We cannot expect lifesaving medicines to be cheap.

But on the other hand, the profits of drug manufacturers have been the highest of any U.S. industry, according to several indicators. The drug industry's annual 15.5 percent profit margin is more than three times as high as the 4.6 percent margin of the average Fortune 500 company.

I would hate to tell you how that compares with the profit margin of the average Montana company.

And the problem is made more complicated by the fact that the industry benefits from a very substantial Federal tax break. That tax break is known as section 936 of the Internal Revenue Code. Section 936 provides an income tax exemption for business income earned in Puerto Rico and other U.S. territories. Many prescription drugs are manufactured in Puerto Rico. The stated purpose of section 936 is to promote jobs and investment in these possessions. That is a valuable goal.

But it appears that drug manufacturers have benefited beyond the intent of the provision—and at the expense of U.S. consumers. The drug manufacturing industry receives about \$2 billion a year in section 936 tax credits. They also receive other tax breaks, including the research and development tax credit, which I strongly support.

But the result of these special tax treatments is that the drug industry's tax burden is proportionately lower than that of the average U.S. industry. While the drug industry is making these huge profits and benefiting from a Federal subsidy, the people who buy their products are paying the price.

The drug manufacturing industry should not continue to make extraordinary profits at the expense of the consumer—and still reap huge profits from taxpayer-supported subsidies. This legislation tells the drug manufacturing industry that unless they keep their drug prices down, they will lose part of the special tax break that benefits them.

Mr. President, I support the intent behind this legislation: keep prescription drug prices under control. In fact, this is the only legislation I know of that makes a genuine effort to address the problem. And I agree that taxpayer-supported subsidies are not, and should not be, a blank check. If drug manufacturers want to continue to receive special tax treatment, they should be fair to the American public.

I again commend Senator PRYOR for his dedication to this issue. He has been tireless in his efforts.

I have long supported Senator PRYOR's efforts on prescription drugs. I will continue to do that. I am a cosponsor of S. 2000. I also believe we should

explore this issue further, and continue to explore other solutions.

But the circumstances we are operating under today are difficult.

In the interest of passing a bill quickly and getting it to the President by the March 20 deadline, the Finance Committee chairman has asked for a tax bill that is free of amendments. As a member of the Finance Committee, I regret that I must make a choice between an amendment I would be inclined to support, and honoring the chairman's request to complete the tax legislation before us.

I will honor the chairman's request and vote to table this amendment.

But that is no reflection of my views on the substance of this issue. I will be happy to help Senator PRYOR advance this issue and address the problem of prescription drug costs in a serious and thoughtful way.

Mr. GRAHAM. Mr. President, today, the Senate is considering a Pryor prescription drug amendment.

I respect Senator PRYOR's intentions—his bill attempts to lower the spiraling costs of health care. Indeed, prescription drug prices, like most health care products and services, have outpaced the rate of increase of general inflation.

The rising cost of prescription drugs affects all Americans, including the 16-million Americans over age 65 without prescription drug insurance. Indeed prescription drugs account for the highest out-of-pocket medical costs for three out of four elderly. In Florida, with 2.3 million Medicare beneficiaries, this problem is especially prominent. For this reason, I especially applaud Senator PRYOR's efforts to review Medicare coverage of prescription drugs.

But, to limit the costs of prescription drugs in isolation is not the answer. To reform one part of the health care system, and one which has competed worldwide as the Nation's premier high-technology industry, begs the question. Cost is the major inhibitor for access to health care for all Americans. For this reason, we must deal with the issue of cost comprehensively and uniformly.

Another concern of mine is the importance of section 936 to the economic development of Puerto Rico and qualified Caribbean Basin countries. The amendment could sharply reduce the amount of 936 funds available for development oriented private sector projects in the Caribbean Basin. As of December 1991, \$800 million in section 936 funds had been approved by Puerto Rico for investment in the Caribbean Basin, creating an estimated 21,500 new private sector jobs in qualified CBI countries.

Florida's proximity to the Caribbean Basin nations and Puerto Rico creates a special interest in economic development for these nations. Unemployment could result in increased immigration

to Florida. It also could harm countries which serve as important markets for U.S. products.

Mr. President, if the issue here is the section 936 tax credit—its original intent and its experience—then we should evaluate the tax credit in its entirety. It would be unfair to prematurely inhibit pharmaceutical industry access to the tax credit, especially when many other manufacturers utilize it.

In closing, while I commend Senator PRYOR for his repeated attention to rising health care costs, I can not support his approach today. I look forward to consideration of comprehensive reform efforts which will contain the costs of all health care services and products.

Mr. MACK. Mr. President, I oppose the prescription drug cost containment amendment which has been offered by Senator PRYOR.

Mr. President, while this amendment may be well-intentioned, Senator PRYOR is pointing his finger in the wrong direction. As a result, I believe this amendment will harm the very persons it is designed to help.

Private pharmaceutical companies spend almost \$11 billion per year on research—research which has provided hope and cures for many people with debilitating and life-threatening diseases. The price controls set forth in this amendment will cause a reduction in industry investment in pharmaceutical research and development. This will result in the introduction of fewer new medicines for patients.

Mr. President, to give but one example of the pharmaceutical industries' impact on our lives, I would like to cite the research currently being done to help those who have cancer. In addition to the importance of detecting cancer at an early stage through cancer screening procedures, pharmaceutical companies are continuing to invest substantial funds in researching and developing drugs to save the lives of those currently fighting the cancer battle. Mr. President, I want no part of any legislation which would delay or deny new medicines for patients waiting for cures and effective treatment.

Mr. President, the pharmaceutical industry is one of America's few competitive businesses in worldwide product development and financial stability. In fact, pharmaceutical companies are one of the few U.S. industries with a positive trade balance. I was particularly struck by the statement contained within a September 1991 U.S. International Trade Commission report submitted to the Senate Finance Committee, concerning the global competitiveness of the pharmaceutical industry.

Of the top 20 firms in the global industry in 1990, nine were based in the United States. One reason for the U.S. industry's strong position in the world market is its level of innovation, which, in turn, is based on a num-

ber of factors including the domestic industry's continuing commitment to high R&D expenditures; \* \* \* and, perhaps most important, the "relatively unencumbered" U.S. economy, in that it has not to date implemented price controls on pharmaceuticals. \* \* \*

Supporters of this amendment characterize it as a carrot-on-a-stick incentive to encourage pharmaceutical manufacturers to reduce their prices. I believe this amendment can be better characterized as a loaded shotgun sticking down a rabbit's hole, ready to fire. By limiting section 936 credits for drug makers, as this amendment proposes, the cash-flow available to invest in research and development would be significantly reduced. This will only hurt U.S. firms.

As the U.S. International Trade Commission stated in its report, one of the reasons for America's preeminence in the pharmaceutical field is its commitment to research and development. Removing the incentives for continuing this high level of commitment to research and development could prove to be fatal to American drug manufacturers. It would be like declaring open season on one of America's few remaining worldwide competitive industries.

Mr. President, I am certainly concerned over the high cost of health care and the impact of this cost, including prescription drugs, on consumers' budgets. However, the statistics show that, even in the face of spiraling health care costs, the percentage of GNP spent on prescription drugs has remained constant over the past 25 years. In fact, since 1965, the percentage of the health care dollar attributable to pharmaceutical drugs fell from about 9 to 6 percent. This amendment fails to address the real problem with health care costs.

Mr. President, instead of imposing price controls on the pharmaceutical industry, and causing a decrease in the amount of research and development, we should be encouraging companies to continue to develop new and more advanced medicines. Only by allowing free market principles to operate can we preserve the preeminence of America's pharmaceutical companies and ensure that Americans receive the best and most advanced medications in the world.

Mr. MCCONNELL. Mr. President, I rise today to express my views on Senator PRYOR's measure to contain the cost of prescription drugs. While I appreciate the Senator from Arkansas' effort, I cannot support price fixing. I believe that if such price caps are implemented, the health industry will suffer.

I would like to commend Senator HATCH for his efforts in bringing to light the true benefits that pharmaceutical companies provide. Senator HATCH has repeatedly shown that the biotechnology and pharmaceutical industries are some of the strongest and

most productive in the Nation. The pharmaceutical industry has produced a number of incredible medical advances that have had an effect on all Americans. This is not by luck, Mr. President. It takes years and years of painstaking research to produce a single prescription drug. Finding cures for the diseases that afflict us is often like finding a needle in a haystack. I do not believe that imposing price controls on pharmaceutical corporations is the solution to our health care crisis. I believe that price regulation is a placebo.

Since we are debating an amendment on economic recovery, I would like to mention how this amendment might affect the economy. This tax credit was originally provided to encourage economic development in Puerto Rico. The tax credit has provided 100,000 Puerto Rican jobs in this United States territory.

Puerto Rico is the 10th largest importer of United States goods, injecting \$2.1 billion into the United States economy. We have a good relationship with our Caribbean neighbor. This legislation could jeopardize our economic relationship by creating uncertainty for American companies operating in Puerto Rico. Puerto Rico presently suffers from an unemployment rate of 15.8 percent. An increase in the unemployment rate will substantially increase claims on unemployment benefits, AFDC, and Medicare. Further uncertainty and economic decline would wreak havoc on this island nation that is dependent on U.S. investment. It is important that we carefully consider the implications this legislation will have on the people and economy of Puerto Rico and the United States.

I believe that the cost of prescription drugs and health care is a concern of every Senator. This legislation, however, will not effectively lower the cost of medication or ensure that future health needs will be cared for. I urge my colleagues to oppose this amendment.

Mr. BENTSEN. Mr. President, I move to table the pending amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Hawaii [Mr. INOUE] are necessarily absent.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of illness in family.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Sen-

ators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 38 Leg.]

#### YEAS—61

Baucus	Garn	Mitchell
Bentsen	Gorton	Moynihan
Biden	Graham	Murkowski
Bond	Gramm	Nickles
Bradley	Grassley	Packwood
Breaux	Hatch	Pressler
Brown	Hatfield	Robb
Burns	Heflin	Roth
Chafee	Helms	Rudman
Coats	Jeffords	Sanford
Cochran	Johnston	Seymour
Craig	Kassebaum	Shelby
Cranston	Kasten	Simpson
D'Amato	Kerrey	Smith
Danforth	Lautenberg	Stevens
Dodd	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Exon	McCain	
Ford	McConnell	

#### NAYS—36

Adams	Dixon	Nunn
Akaka	Fowler	Pell
Bingaman	Glenn	Pryor
Boren	Gore	Reid
Bryan	Hollings	Rockefeller
Bumpers	Kennedy	Sarbanes
Burdick	Kerry	Sasser
Byrd	Kohl	Simon
Cohen	Leahy	Specter
Conrad	Levin	Wellstone
Daschle	Metzenbaum	Wirth
DeConcini	Mikulski	Wofford

#### NOT VOTING—3

Harkin	Inouye	Riegle
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So the motion to lay on the table the amendment (No. 1708) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Am I correct in my understanding that under the previous order, Senator DOLE is now to be recognized to offer an amendment?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Mr. President, I understand Senator DOLE will be shortly ready to offer his amendment and I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Iowa be recognized to address the Senate for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SCHEDULE

Mr. SARBANES. Will the majority leader yield for a question as to what

the program will be after the Dole amendment; what will be the balance of the evening?

Mr. MITCHELL. Mr. President, I will be pleased to respond.

I previously announced on several occasions here on the floor that we would be in session late this evening, and late tomorrow evening, and, if necessary, late Friday evening. We are going to stay here until we finish this bill this week.

We have just taken 10 hours and 15 minutes on the first amendment. At that rate, it is going to be the longest week in Senate history. But I hope and expect the pace will quicken.

I am not able to make any prediction as to developments later this evening other than to say Senators should be prepared, as I indicated several times previously, for a long session. I hope, however, to make good progress.

I intend no criticism of anyone in connection with the length of time on the previous amendment. It is an important amendment. Many Senators wanted to speak; many Senators did speak. But I hope that each subsequent amendment will not take as long.

Mr. BENTSEN. Mr. President, if the leader will yield for a comment, let me state that considering the time it has taken on this one, and thinking about the President's deadline, which we are trying very much to meet, and further realizing there are substantial differences between the House and the Senate version, which is going to take some time to try to reconcile, and then it must come back for the conference report, I strongly urge that the majority leader resist the offering of amendments.

If we can cut the debate down to where we can finish this thing by Thursday night, which at the pace we are going, we obviously cannot do—it will take some self-discipline on the part of some Members. I know that is not easy.

Mr. MITCHELL. I thank my colleagues. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I want to address the issue of the bill, not a specific amendment.

Although I have very strong reservations about some of the provisions of the Democratic tax bill before us, I want to begin on an encouraging note by pointing out some of the positive provisions in the bill.

As a member of the Finance Committee, it is very encouraging to me that some proposals that I have been working on for a very long time were included in the committee markup. Since 1987, I have been introducing legislation to restore the interest deduction on student loans. The termination of this deduction was a very unfortunate result of that 1986 Tax Act. Finally,

this year, along with Senator BOREN, I introduced S. 2160, that would allow either a credit or deduction for interest paid on educational loans.

So I am very encouraged, and I am also very happy that the committee agreed to include this proeducation, progrowth legislation in this bill.

In addition, long ago I introduced the initiatives for middle-income tax cuts, as well as the extension of the first-time farmer bonds. I have also been working with Senator PRYOR, pushing for a second taxpayer bill of rights. These are all very positive additions that have been included in this bill.

However, the problem that we are facing today is whether or not we are going to agree to a major tax increase. We should have learned that the great tax increase of 1990 at the very least exacerbated the recession. Some think it was a contributing factor.

Mr. President, after voting against the 1990 tax bill, I made the following observation. I would like to quote from those remarks:

With the American economy on the verge of possible recession, new taxes are not the way to go. \*\*\* Congress has failed in its constitutional duty to make Government work for the people of this country. We're trying to do in the 3 months before an election what should have been done in the entire 9 months before. We abandoned our responsibility for the sake of a budget summit because we thought there would be "political cover" in doing so. Well, what we have created is not political cover, but political crisis.

I think to some extent my remarks of 1990 have come to be true, at least as far as this recession is concerned.

Obviously, time has proven my observation back in 1990 was on point. It is unfortunate that President Bush only recently realized that the 1990 Budget Act was a mistake and has had devastating consequences. Increasing taxes now will only further the economic downturn that materialized after the disastrous 1990 tax increase.

Some might say that is what certain politicians want in order to make a political gain in November. If that is the case, then it is a sad commentary on this body, as well as on Congress as a whole.

The majority has argued that only the upper-income taxpayers will see increased taxes. What about the repeal of the young child tax credit that is in this bill? Just a few years ago, Congress determined that low-income families with a child under 1 year old needed an additional tax credit. This bill repeals that credit, thereby increasing taxes on low-income families that now qualify for the credit. This is bad family policy and I think, also, bad tax policy.

Beyond this, I would like to know just how many more taxes have to be raised to satisfy the appetite of Congress to spend. Many of those who agreed to the 1990 budget deal did so

thinking that it would put a lid on further tax increases. I am certainly glad that I did not fall for that hoax, but there are others who did and now regret their actions, and I think the President is one of them.

So, Mr. President, many of the provisions in the legislation before us could easily be put together in a consensus package that would be good for the country. The people of this country expect us to put politics aside and exercise our constitutional duty to lead this Nation out of the crisis that we are now facing. It is time that political leaders stop trying to divide our Nation along class lines, and start helping unite our people for a better and stronger America.

Mr. EXON. Mr. President, I will only take a few moments of the Senate's time. I will not interfere with the upcoming business of the amendment to be offered by the minority leader.

Mr. President, I wish to make a statement at this time as to this Senator's position with regard to the matter before us. The last vote that we had in this body, the amendment sponsored by my friend and colleague from Arkansas with regard to prescription drugs, is something that I am a cosponsor of and I support the efforts and have supported the good efforts by the Senator from Arkansas. I voted against that amendment by voting for the tabling motion, not because the measure did not have merit, but because I have been pleading for a long time to recognize that the President of the United States, in his State of the Union Address, challenged the Congress to come up with a solution to the problems that face this Nation by March 20. I appealed in the Democratic caucus for the elimination of all amendments, regardless of how good they were, because I happen to believe that this is a very important piece of legislation that we are working on. It is not a perfect piece of legislation, in my view, as it came out of the Finance Committee, but it is a well-balanced proposal that has most of the initiatives that the President outlined in his State of the Union Address to us. I think, basically, it is a well-crafted, a well-thought-out proposal, and I believe that we have the obligation to heed the President's call to present him a package by the 20th of March. If we continue to offer amendments, regardless of how good they are, that date is not going to be reached.

Therefore, Mr. President, regardless of the merits of the amendments that will be offered to the Finance Committee's bill, I am going to vote to table, or against every amendment that is offered from either side. I happen to feel that that is the only way we are going to get this body moving as the leadership is trying to get it to move.

I appreciate the fact that the minority leader is about to offer a very im-

portant amendment from that side of the aisle and have agreed to a time agreement on it. I think that is a step in the right direction. Let us have our debates and hold down the number of amendments that are offered, but then, after a debate, let us vote up or down and move this body ahead to come up with something, as the President challenged us to do, by March 20.

I yield the floor.

#### THE ELECTION ECONOMY

Mr. HATFIELD. Mr. President, today we will begin consideration of amendments to the tax bill, H.R. 4210. As you are aware, there are 9 days left until the target date proposed by President Bush for passing an economic growth bill. He has offered the essential leadership that this country needs. Now it is time for us to act. I believe, however, that we may have set upon a course which places in jeopardy our opportunity to aid this economy. While disagreement is an essential component in our system of government, the health of our Nation's economy is too critical to be held hostage to political posturing this year.

The bill reported out of the Committee on Finance by a straight party-line vote is, like its counterpart in the other body, not legislation that the President will sign. Those responsible for creating this bill know full well that the President will not sign it into law because it contains immense tax increases at a time when our country needs investment incentives, not stifling disincentives and additional burdens.

Mr. President, spending our time attempting to lure a veto is posturing, and I think it is a shame. It is unfortunate not only because of the cynicism it represents, but also because there are many provisions in this bill that I would like to see passed. There are educational incentives, health care incentives for small businesses, and extensions of important housing programs such as the low-income housing credit and mortgage revenue bonds. There is also the needed repeal of most luxury taxes, a welcome admission that in some cases our attempts to raise revenue do more harm than good by starving businesses and putting laborers out of work.

Of particular interest to me, Mr. President, is the inclusion in this growth package of key pieces of S. 1790, the High Skills Competitive Work Force Act, sponsored by Senator KENNEDY and me. The work force training provisions incorporated into this bill will establish occupational proficiency standards for industries in which no recognized training standards currently exist. This bill also clarifies the qualifications under which businesses can claim a tax exemption for programs which train young people. From a pure policy standpoint, I am jubilant that these ideas are moving forward, regardless of the vehicle.

However, while there may be some worthy aspects to H.R. 4210, the total package is not one that will effectively further this Nation's economic recovery. While President Bush's seven point plan makes much more sense at this crucial time, I do not expect that it has any greater chance of becoming law in its present form than does the Democrats' package. However, because the President's plan has merit, members of both Parties would be well-advised to proceed with working toward a compromise that will make most of his proposals a reality, without additional tax increases.

The President's seven point plan is a well balanced approach to stimulate our industries and enhance jobs creation. It includes a few provisions, such as the first-time home buyer's credit, the capital gains cuts, and passive loss relief, that are critical to sectors such as the timber and housing industries that impact so greatly upon Oregon and the country as a whole. We have seen it time after time in testimony before our committees and in newspaper articles; there has to be a healthy housing sector if this country is to move forward.

So, where are we now? We have a bill that will be vetoed, and the likely prospect that any attempt at an override will not succeed. Then, we start over, hopefully working together as we should have from the beginning. There are some economists that say that the best thing that we could do for the economy would be to forget about a tax bill. Well, the end result may be that tax legislation is not enacted into law this year. If those economists are correct in their forecasts of a recovery later this year, then we should not feel pressured to pass a comprehensive tax bill. Many citizens in Oregon have indicated to me that they do not believe we need tax changes this year. However, if we are going to act on a bill to assist this recovery, let's work together to pass a responsible package that does not add to the deficit and does not include large scale tax increases.

Mr. President, a constituent of mine from Mill City, OR, called my office last Friday with an interesting idea. He proposed that before beginning consideration of tax legislation this week, all the members of this body be required to come to this Chamber, mix among themselves for several minutes, and then sit down at the nearest desk regardless of which side of the aisle it happens to be on. His point is well taken.

We can argue all day about which party is grandstanding on the economy, or which party is the most economically responsible. But one notion remains undisputed: We are not sent here by the people of our States so that we can act as advocates for the various Presidential candidates. We are sent here to set the policies that will

achieve economic prosperity for those we represent, policies that will help this country maintain its strength as a leader in the world community. It may not be in the political interests of the Democratic Presidential candidates to have a healthy economy by next fall. But, for all of those incumbents in the service of their constituents, it is not only in their interest to promote economic growth, it is their duty.

Mr. BOREN. Mr. President, today we consider tax legislation that contains a great many provisions that I support, but that also encompasses provisions that I consider to be unwise tax policy. I will vote in favor of this legislation, but I do so knowing that we will be considering another tax bill within the next few weeks and hoping that this second bill will represent a bipartisan effort to improve the long-term economic health of this Nation.

We would have served the American people better had we made such a bipartisan effort in the first instance. We would have discharged our responsibilities more effectively had we overcome party politics and worked together. The American people are disappointed to see that we could not resist playing "politics as usual" in this election year.

Nevertheless, this bill contains provisions I wholeheartedly support and hope to see included in any future bipartisan bill. First, the legislation provides elements of real relief for middle-income taxpayers. I am particularly supportive of the provision that would allow taxpayers the option of a deduction or a tax credit for interest paid on student loans. Many middle-income Americans suffer under the tremendous burden of paying for a college education for their children. Unlike the poor, they cannot qualify for scholarships and grants; and unlike the very rich, they must worry about meeting the financial costs of a college education. Their net worth, which is typically about \$60,000 and mostly tied up in their homes, is insufficient to finance the average cost of a college education. This proposal represents real relief for these families, and it will aid in the goal of educating our work force to meet the challenges of the next century.

In addition, I am pleased that the legislation before us today includes an extension of the targeted jobs tax credit. The groups targeted by this credit comprise an economic underclass, trapped in a vicious cycle of poverty and dependency. These structurally unemployed Americans have great difficulty finding jobs, particularly in these recessionary times.

Not only does the bill address the country's need for short-term economic stimulus, it also begins the process of providing incentives to promote long-term investment and improve our competitiveness in the global marketplace.

I do not think the bill goes far enough. In a series of hearings before the Subcommittee on Taxation, which I Chair, experts have discussed more far-reaching proposals to address these concerns. I hope that in the future, Congress can address these issues in meaningful ways, including consideration of more substantial alternative minimum tax relief and consideration of consumption-based tax systems.

Nonetheless, the legislation does make some promising, if small, first steps. At the outset, I approve of its acknowledgment that the Tax Code is not economically neutral. The tax system impacts the investment decisions of corporations and of all Americans. We must accept this fact and construct the tax system so that it encourages productive investment and so that it reduces the cost of capital for American businesses.

As I noted in passing, one of the aspects of the Tax Code that has decreased America's ability to compete overseas has been the alternative minimum tax system. While the object behind the AMT was laudable—certainly, no corporation that reports profits to its shareholders should entirely avoid paying taxes—the AMT has had unintended economic effects. This legislation addresses some of those effects, but we must give serious consideration to addressing more.

First, the legislation removes gifts of appreciated property from the AMT. Gifts of appreciated property are critical to those sectors of our society that depend heavily on philanthropy for support. For example, 80 percent of the collections in American museums are the result of donations of appreciated assets that are part of our cultural heritage. Land conservation groups depend on gifts of appreciated land to help conserve open space for public enjoyment and protection of important wildlife.

Second, I am very pleased to see included in this legislation AMT relief for the independent oil and gas industry. This industry faces a crisis that will lead to an irreversible decline without decisive action. In the last decade, the number of domestic independent producers has dropped by more than one-third, and the industry has lost 317,000 jobs. Drilling reached an historic low last year as the rig count dipped dramatically to 653.

This is not merely an industrywide, or a regional, problem, Mr. President. Sixty percent of this country's natural gas and 40 percent of our crude oil are produced by independents. Since 1986, domestic oil production has declined by more than 1.7 million barrels per day. This lost production equates to a measurable loss in wealth to the United States, before any multiplier effects, of \$160 to \$250 billion. Most experts agree that the treatment of intangible drilling costs—a necessary and

vital business expense—under the AMT has been responsible for this decline.

The provision in the bill before us today provides the kind of relief so desperately needed by the independent oil and gas industry. In addition, it simplifies the calculations required by the alternative minimum tax system relating to drilling costs so that independents can actually take advantage of the relief provided them.

I am also pleased that AMT relief is provided generally to corporations wishing to continue a high level of productive investment even in this recessionary climate. Yet I am disappointed that the legislation contains no relief for those corporations that have been paying the AMT for several years and that have not been able to use their AMT credits while they still have some value.

I am pleased to see the inclusion of one other important provision that is designed to reverse parts of the 1986 act that went too far. Although we achieved the important goal of eliminating economically inefficient tax shelters, we also denied to those substantially involved in the real estate industry the ability to deduct passive losses against ordinary income. This legislation ensures that people whose principal occupation is the development of rental real estate will be allowed to offset ordinary income with such losses, thereby stabilizing the real estate market and providing both short- and long-term economic relief.

Finally, Mr. President, I was gratified to see Democrats in the Senate unite behind a reduction in the capital gains tax rate for currently held assets, as well as for assets that will be acquired in the future. Although the legislation's approach is innovative and may be overly complicated, it represents a welcome first step. It is certainly a move in the right direction because it is broad-based, includes a holding period to discourage speculative investment, and covers assets that are currently held by taxpayers.

This legislation is far from perfect, however. I dislike the so-called middle-income tax credit that serves as one of the centerpieces of this bill. I think that we have underestimated the intelligence of the American people by including this provision. The average middle-income taxpayer does not want the Government to provide him or her with relief that equals only a dollar or less a day. Our constituents are not duped by such proposals; they know that these provisions do not represent meaningful and lasting relief.

No, Mr. President, Americans want us to adopt policies that ensure them and their children quality educations and productive jobs. They want us to take serious steps to reduce the deficit before it becomes an insurmountable economic burden on future generations. I urge my colleagues to talk to

their constituents before we return to work on the next tax bill and heed their wise calls to abandon the panacea of the middle-income tax credit.

I am also strongly opposed to the Coal Industry Retiree Health Benefit Act. Although I am committed to working toward a solution to remedy the financial problems in the health funds and to ensure the continuation of health benefits for retired coal miners, I cannot support this legislation. It is a terrible, terrible precedent. Rather than putting the responsibility of maintaining this program on the parties who freely negotiated a private contract, this bill places most of the burden on completely uninvolved third parties.

Not only does the legislation establish the dangerous precedent of Government intervention in a situation where two parties fail to live up to their contractual obligations, it also imposes a crazy tax scheme on the industry. First, the tax varies by region. If a bituminous coal company is lucky enough to produce coal in the West, it is taxed at a rate of 15 cents an hour, and that tax will never be changed. If a similar coal producer unwisely located in the East, however, it will be taxed initially at a rate of 99 cents an hour. By 1996, it may well pay a tax of \$1.45 per hour.

I am also disturbed by the mechanism by which the tax is imposed and increased. Congress is not the entity responsible for the tax after the initial enactment of the bill. Instead, a five-person Government agency, controlled by the BCOA and the UMW, is empowered to assess the tax on Eastern coal companies. I am frankly alarmed by this unwarranted abdication of our power of taxation, and I am surprised that this body would allow such an unprecedented delegation of its duties.

While I continue to maintain these serious reservations, I do believe that on balance this legislation is a positive step toward achieving relief for the middle-income taxpayer in the short-run and toward restoring this country's long-term economic health. It provides the foundation for beginning the process of transcending partisan politics and working together to pass comprehensive tax legislation that we can all support. Accordingly, Mr. President, I will vote in favor of this legislation.

Mr. President, I have often brought the plight of the independent oil and gas industry to the attention of my colleagues. This industry's situation has worsened dramatically in the last few months. Put most starkly, they are in a crisis. Since 1986, domestic oil production has declined by more than 1.7 million barrels per day. This lost production equates to a measurable loss in wealth to the United States, before multiplier effects, of \$160 billion to \$250 billion. The number of domestic inde-

pendent producers has dropped by more than one-third, and the industry has lost more than 300,000 jobs in the last decade.

While it is tempting for many to dismiss this as a regional problem that does not affect the rest of the country, that conclusion is a dangerously flawed one. The independent oil and gas industry is vital to this Nation's economic future. Sixty percent of the natural gas in this country and 40 percent of our crude oil are produced by independents. Surely our recent experience in the Persian Gulf taught us how important secure domestic sources of energy are to this country.

Today we will consider tax legislation that addresses one of the primary causes of the industry's decline: the alternative minimum tax system's punitive treatment of intangible drilling costs. I am hopeful that the Congress will pass and the President will sign legislation that will afford the industry AMT relief in the near future. As I have analyzed these problems and proposed solutions, I have found two recent news articles to be helpful. The first appeared in the New York Times on March 2 and describes the effect of the collapse in prices on the natural gas industry. The second appears in the current issue of Time and warns that the downturn in the oil and gas industry may well be irreversible absent quick and decisive action.

Mr. President, I ask unanimous consent that both articles be printed after my statement so that we can consult them as we consider the tax legislation before us today.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 2, 1992]

**COLLAPSE IN PRICES FOR NATURAL GAS  
SHAKES PRODUCERS**

(By Thomas C. Hayes)

DALLAS, March 1.—The collapse of natural gas prices in the last three months, to the lowest winter level in more than a decade, is delivering the worst jolt to the nation's weakened oil and gas industry since oil prices fell by more than half in early 1986.

Many giant companies have announced layoffs or reduced spending for new wells, and hundreds of smaller companies, many of them family run, are going out of business. Oil companies are raising their investments overseas, where costs are lower and potential discoveries more promising, increasing the nation's reliance on imported energy.

But the lower prices have scarcely benefited residential customers. Retail prices have not fallen, and only large manufacturers and electric utilities that burn gas have reaped any windfall, consumer groups say.

**A POSTWAR EBB**

By some measures, activity in the domestic oil and gas industry is at its lowest ebb since the Administration of Franklin D. Roosevelt. Warm weather and other factors have caused a supply glut that has depressed prices and made costly new drilling unprofitable.

Many industry executives and financial analysts said that the tally of jobs pared from

oil and gas production in the United States since the peak month of the last drilling boom, January 1982, could exceed 400,000 by the end of this year, far more than the number lost in the same period in the American auto industry.

Contracts to supply natural gas for March delivery are at \$1.25 per 1,000 cubic feet, up about 20 cents from the February contract but down from \$2.30 for the October contract and from \$1.65 in March 1991. Compared with the highest recorded monthly price, \$3.50 in February 1982, natural gas prices have fallen by a yearly average of more than 7 percent in the last 10 years.

**DISAPPOINTING WINTER**

Gas producers who count on the winter months to generate their biggest sales have watched as prices dropped even below the low point of last summer, an extraordinarily rare development in the winter, when demand for natural gas peaks.

Demand for natural gas has increased in the last few years—to about 25 percent of the nation's total energy supply—as gas became cheaper to burn than fuel oil for thousands of industrial users. But customers, who use gas mainly for heating and cooking, have not reaped much savings.

Edwin S. Rothschild, energy policy director at Consumer Action, a consumer research organization in Washington, said that largest manufacturers and electric utilities that burn gas can bargain directly with producers for large-volume purchases and can choose between gas or oil fuel supplies, whichever is less costly.

But residential customers and owners of small businesses, with no comparable bargaining leverage, continue to pay high prices of \$6 or more for 1,000 cubic feet of gas, he said.

Carol Freedenthal, president of the Jofree Corporation, a consulting firm in Houston whose clients are mainly natural-gas producers, said, "The homeowner and residential customers, the largest users of natural gas, are not getting the benefit" of lower gas prices.

The worsening struggle for survival faced by legions of independent producers may prove crucial for the nation's future output of oil and natural gas. Most operate in Louisiana, New Mexico, Oklahoma and Texas, the states that produce 80 percent of the domestic natural gas.

According to the Independent Petroleum Association of America, a trade group in Washington, independent producers produce about 60 percent of the natural gas and 40 percent of the oil in the continental United States even though most have 20 or fewer employees.

"It would be a disaster for the country for this small producing segment of the industry to be driven out of business by lower prices," said Mr. Rothschild. "Natural gas is too important a fuel. It helps reduce our dependence on foreign oil."

And dependence on oil imports is a big burden for the economy. Payments for imported oil amounted to \$37.2 billion last year, or more than half of the nation's \$66.2 billion trade deficit.

**CUTBACKS BY THE MAJORS**

The retreat from domestic oil and gas fields comes after big companies bet heavily on natural gas to support their domestic operations after the oil-price debacle six years ago. Cutbacks have been announced by companies including Mobil, Chevron, ARCO and Phillips Petroleum, and by large independents like Oryx Energy, Maxus Energy and Anadarko Petroleum.

ARCO, the nation's eighth-largest oil company, pared its work force by 2,100 jobs in August, including 900 from its operations in the continental United States, leaving a total work force of 22,000. More recently, ARCO said that for the first time, it would spend more to explore and develop reserves in foreign countries than in the continental states.

"Lower gas prices are one reason, but the other is that there just aren't the opportunities for exploration that there once were" in the United States, said Robert E. Wycoff, president and chief operating officer of ARCO. At the same time, he added, the demise of Soviet-led Communism has opened up several areas, including Syria, Yemen and Eastern Europe, as well as Russia, to exploration by Western companies.

When Maxus Energy said last month that it would cut its 1992 spending on domestic drilling by half, to \$45 million, the company added that it was continuing to expand overseas drilling investments in 14 countries, up from 6 countries four years ago. Its spending on international projects will rise at least 20 percent this year, to \$150 million.

"While jobs are being eliminated in North America, we will be adding new positions in international" operations, Charles L. Blackburn, chairman and chief executive of Maxus, said at the time.

The natural-gas supply glut was caused by many factors. Many big oil companies have kept gas flowing at high rates in the last two years to generate cash from domestic gas fields to invest into more promising fields abroad.

Tax incentives approved by Congress in recent years have also raised output. Companies producing gas from underground coal layers, mainly in northwestern New Mexico and northern Alabama, and from dense rock formations called tight sands in West Texas and other sites, are eligible for big tax credits that make gas sales profitable even if prices fall below \$1. The credits amount to as much as 90 cents per 1,000 cubic feet of gas produced through the year 2002 from wells drilled before the end of 1992.

#### NEW DRILLING OPPORTUNITIES

In addition, a Reagan Administration policy that opened hundreds of Government-owned blocks in the Gulf of Mexico to drillers in 1984 and 1985 has led to rising sales of offshore gas in the last few years. Hundreds of wells developed after those lease sales in the mid-1980's are now in full production.

Leaps in drilling technology have lowered exploration costs and sharpened the eye of oil and gas explorers. High-speed computers are charting three-dimensional maps of drilling prospects by tracking sound waves reflected from rock layers thousands of feet below ground.

While the diversified oil giants and most major independent producers have adjusted to the drop in natural-gas revenues, smaller independents are struggling. Mr. Freedenthal said that small producers were ripe for a shakeout in an industry that he said had become bloated during its last boom, and has since been gradually deregulated.

The Independent Petroleum Association now has about 8,000 members, down from 20,000 in the early 1980's. As natural gas operators are shunned by Wall Street, banks and other sources of financing, the independents must pay for drilling programs mainly from their shrinking revenues. The price collapse has caused many to sharply curtail or halt their drilling efforts.

#### RESTRICTING SOME SALES

A few big independents that have low debt and adequate cash reserves have restricted a

portion of their gas sales. Robert J. Allison, chief executive of Anadarko Petroleum, said the Houston-based independent company had reduced its planned sales of 600,000 cubic feet per day in February by 25 percent because of low gas prices. Last week, the company went even further, reducing its planned sales for March by nearly half.

"I'm shocked and amazed at people who will sell all of their gas regardless of price," Mr. Allison said. "A lot of people are losing money on every thousand cubic feet of gas they sell," he added, referring mainly to the big energy companies.

The purging of small independents has partly come from growing competition that followed the gradual deregulation in natural gas markets during the 1980's.

Bigger companies, with superior exploration technology and lower operating costs, have advantages of larger scale that enables them to operate profitably at lower prices for natural gas and oil prices than the small independents.

The number of rigs exploring for oil and gas in the United States fell to 653 in the last week of January, the lowest postwar level recorded by Baker Hughes Inc., the Houston-based oilfield service company. The total was little changed last week, at 673, up 6 from the week before. Analysts say the average weekly rig count for 1992 could drop below 735, or well below the postwar low average of 861 rigs set in 1991.

The seismic crew count, a barometer of future drilling activity that measures the number of teams searching for reserves in the United States, has fallen to new monthly lows in each of the last five months. The total was 79 in January, compared with a peak of 744 crews in September 1981, according to the Society of Exploration Geophysicists in Tulsa.

#### GROWING VULNERABILITY

Many oil executives continue to warn that the nation is becoming more vulnerable to future oil or gas shortages. The total number of wells drilled in 1991 dropped to 27,000 or less than a third of the 70,000 drilled as recently as 1985. Imported oil amounted to 40 percent of total United States supplies last year. The figure was 42 percent in January, and most energy analysts expect it to rise when the economy picks up.

For now, worries in Washington about United States energy security have waned after the military defeat of Iraq last year. To some analysts, the Persian Gulf war summed up the Government's unstated energy policy, which they see as defending shipments of imported oil—by force, if necessary.

"That was our energy policy—Desert Storm," said Kevin Simpson, an analyst with Wertheim Schroder & Company.

[From Time Magazine, Mar. 16, 1992]

#### HARD TIMES: THE GREAT ENERGY BUST

(By Richard Woodbury)

MIDLAND.—Along Highway 80 in West Texas between Midland and Odessa, giant drilling rigs sit rusting in the winter sun. Gas wells that dot the bleak mesquite-covered prairie lie shut down. Downtown Midland has the stark look of an evacuated city, with empty storefronts and vacant building lobbies.

The scene across America's oil patch these days bears a chilling likeness to the bust that befell the region in the mid-1980s, when energy-production jobs plunged more than one-third. But in fact the situation today is worse. While many parts of the U.S. economy are struggling through the recession,

few are as hard hit as energy. By every measure, these are among the toughest times since that first gusher at Spindletop in 1901—more akin to the Great Depression than the cyclical booms-and-busts since.

Across the South and West, drilling activity for crude oil is at its lowest point in 52 years. The rig count, the best gauge of life in the oil patch, hovered last week near an all-time low of 660. Production from existing fields has shrunk to its lowest since 1962. Scores of drillers, producers and support firms are laying off, folding up or going bankrupt. Warns Denise Bode, president of the International Petroleum Association of America: "The industry is nearing a state of economic collapse."

More distressing, this latest downturn gives every indication of being permanent. Faced with languishing prices, lower profit margins and tight environmental hurdles to new exploration, the major oil companies are selling off their properties, packing up their drilling gear and heading overseas. Ten billion dollars in assets are on the block as exploration and production head for Africa, South America and the Far East, where drilling costs can be cheaper by half and government sweeteners make new ventures enticing. As the majors lay off workers and leave, those independent companies that can are following. Others are closing up shop or retrenching. Asserts energy scholar Daniel Yergin: "We're seeing a fundamental contraction on the domestic side along with one of the greatest migrations in the history of the oil industry."

Unlike the bust of the mid-'80s, which was marked by nose-diving crude-oil prices, the immediate problem this time is natural gas. Often extracted from the same formations as oil, gas accounts for 24% of the nation's energy consumption, mainly in heavy industry. Producer prices at the wellhead have been in a free fall for months, plummeting last month to \$1 per 1,000 cu. ft., down 23% from a year ago. At that price, producers say they can barely turn a profit, and many who can still afford to operate are shutting their supplies in the ground in hopes of an eventual upturn.

Campaigning in the oil patch last week, President Bush responded to the plight—and political anger—of natural-gas producers by taking steps to hoister demand. He removed regulatory barriers that have hampered utilities from converting power plants fueled by coal and oil to natural gas. At the same time, Bush lessened restrictions on the sale of compressed natural gas for cars and other vehicles. In Washington, Energy Secretary James Watkins declared, "The worst thing we could do is allow our oil and gas industries to decline the way we have." The gas price slide has been a round-house punch to the big energy states of Texas, Louisiana, Oklahoma and New Mexico, still struggling to climb back from the earlier debate. Scores of wildcatters, who find most of the domestic crude and who went after gas when the market fell apart, have folded in the past 18 months.

The impact has been just as severe in Canada, where oil and gas are a bedrock of the economy, contributing nearly 12% of the \$588 billion gross domestic product. Since 1989, nearly 15% of the Canadian work force has been laid off, and major producers are shuttering refineries and closing thousands of service stations. Last year Imperial Oil, owned largely by Exxon, posted the first loss in its 111-year history. Another giant, Gulf Canada Resources Ltd., stunned the industry last month by walking away from its stake

in a huge undersea oil project on the Grand Banks of Newfoundland.

Outside the oil patch, few notice and many benefit from the price slump. Supplies of oil and gas for home heating and industry, abetted by a string of six warm winters, have remained abundant. And the price of gasoline, an average \$1.03 per gal. nationwide for regular, is the lowest in months, thanks largely to OPEC and other foreign producers; they have made up the drop in domestic production by supplying 43% of U.S. oil consumption. On the other hand, the public has not benefited from the drop in natural-gas prices, as pipeline companies and distributors have gobbled up the savings before the fuel reaches households. Though prices at the wellhead have tumbled from \$2.66 to \$1.16 since 1984, household users in Charlotte, N.C., still pay a rate of \$6.14, only 51¢ less than they did 8 years ago.

The steady rise in oil imports has alarmed many planners and industry strategists, who fear that the nation may be setting itself up for another crisis if war flares again in the Middle East. Domestic production, dropping at the rate of 300,000 bbl. a day, has declined to its lowest level in 40 years. The Congressional Office of Technology Assessment projects that by 2010 the nation could depend on imports for nearly 70% of total supply, an amount that Houston energy consultant Louis Powers estimates will take 36 supertankers a day to deliver. Warns Powers: "The mind-set is to let the Saudis give us all we need. It's a policy we will all live to regret."

In many respects, the current slump is an extension of the mid-'80s energy bust that saw prices plummet to \$9 per bbl. Just as the region was attempting to diversify out of its energy dependence, the gulf crisis suddenly forced prices to \$40 in 1990, spurring some drillers to crank up rigs again. But when the war ended, hopes were dashed just as quickly; prices slid back down, and the small trickle of investment money dried up.

The big concern now is the depressed market for gas, which is still the target of most drilling because its plentiful reserves are largely untapped and exploration carries tax breaks for investors. "It's a bloodbath," says gas entrepreneur and former corporate raider T. Boone Pickens. "How many more hits can the industry take?"

Faced with declining profits from U.S. oil and gas operations, such major firms as Chevron, ARCO and Phillips are putting more money into overseas exploration than they are investing at home. "You have to go where you can find the reserves and make a profit" explains Wayne Allen, president of Phillips, which has hiked foreign spending 15% since 1989 to bankroll drilling in such places as Gabon, New Guinea and Italy. All told, according to a Salomon Brothers survey, U.S. oil companies are increasing foreign investment nearly 10%. At the same time, the 21 largest firms are cutting exploration spending in this country by 13%.

Far more troubling than price fluctuations and investment patterns is the fact that the U.S. is running out of economically recoverable oil. Known reserves that can be extracted at current market prices have been declining almost steadily for 22 years, and the current supply of 26 billion bbl. would last the nation barely four years at present usage rates. And while vast formations remain untapped, they are in environmentally sensitive areas—the Alaskan wildlife refuge and offshore California—that Congress has put off limits.

Oilmen argue that the failure to open such reserves will only speed the move overseas

and increase U.S. dependence on imports. Marathon Oil Co. is pouring nearly three-fourths of its \$750 million current production budget into foreign ventures. "Other countries cover our technology and the jobs we bring, and they're luring us with sweet deals," says Marathon president Victor Beghini, "while our government is turning its back."

Oil firms also complain bitterly about an array of regulations that require refineries to meet costly standards for reformulated gasoline and other clean-burning fuels. As a result, Shell, Amoco and Unocal are among big producers that plan to close or downsize facilities. Oilmen say domestic production is further threatened by proposed EPA regulations that would impose tight controls on drilling wastes and other by-products. Such rules, they warn, will force the closing of hundreds of small "stripper" wells that make up 75% of the nation's total.

A more basic worry is that unless drilling rebounds to the 1,100-rig level and stays there, the industry's infrastructure will be so impaired that it won't be able to come back—ever—and U.S. production will slip further. Oilmen decry the lack of attention and support that they feel that industry gets—from the White House on down. "We should have a domestic energy policy, but we still don't have," asserts Pickens. Baker Hughes economist Ike Kerridge agrees: "There's a real danger in driving too many people out of business. The government ought to be concerned."

The trouble is that the oil and gas industry is one that many Americans have learned to love to hate. With the memory of Big Oil's vast profits in the 1970s and early '80s still fresh in their minds, consumers and lawmakers outside the oil patch have little sympathy for the industry's woes. But that could prove shortsighted at a time when U.S. reliance on foreign oil is rapidly on the rise.

Reversing that trend will take a combined effort by Washington and consumers and the companies themselves. Energy firms should develop new technologies that will let them extract domestic oil and gas cheaply enough to make a profit even when prices are low. And motorists should be able to tolerate an oil-import fee that would raise gasoline prices a few cents a gallon at the pump; that would provide fresh incentives for domestic drilling and produce revenues to help reduce the federal deficit. Without some such policy, the U.S. could find itself paying for cheap oil and gas today with skyrocketing prices when the next energy shock hits tomorrow.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, it will be my intention shortly to offer the Republican leadership amendment which in brief are the President's seven tax proposals, the short list as that is known, that he asked to receive by March 20 to stimulate economic recovery. We have added an additional tax proposal of the repeal of all the luxury excise taxes, including automobiles.

The amendment is paid for, under Treasury and Office of Management and Budget scoring, by adopting several of the President's budget proposals to reduce spending or generate offsetting receipts.

The President's seven proposals are: One, capital gains. It lowers the current law top 28 percent on capital gains of individuals to 23.8 percent for property owned for 1 year; 19.6 percent for property owned 2 years; and 15.4 percent for property owned 3 or more years.

On the investment tax allowance, point two, businesses would be allowed to deduct 15 percent of equipment purchased between February 1 and December 31, 1992, and placed in service by June 30, 1993, instead of deducting this amount in later years as depreciation.

Three, the ACE depreciation. The ACE depreciation minimum tax adjustment, which is an administrative headache for capital-intensive companies, would be repealed altogether.

Four, we would allow penalty-free IRA withdrawals for up to \$10,000 for a first home.

Five, a \$5,000 credit for first homes. We could give first-time home buyers. A \$5,000 tax credit if they buy a new or used home between February 1 and December 31, 1992.

And let me elaborate, if I might, Mr. President, on that, because if there is anything in this proposal which will have some immediate effect, in terms of hoping to spur the economy, it is both the withdrawal from the IRA's of the \$10,000 to buy a first home and coupled with the \$5,000 credit—and I emphasize credit—for the purchase of first homes and this applies to both new and used homes. The reason that this particular credit is so important as it affects the purchase of used homes is that about 80 percent of the people who are first-time home buyers do not build a new home. They buy an existing home. And if, as in the bill that is before the Senate, you limit it to strictly homes that are newly built, you cut out about 80 percent of the people who would be eligible for this credit.

Six, on passive losses for real estate, we allow real estate developers to show they materially participate in rental properties that the developer constructed.

And, seven, pension investment in real estate. We make changes to the unrelated trade or business rules, the so-called UBIT rules, to facilitate pension fund investment in real estate.

Again we have also added the repeal of the luxury tax on all of the existing taxes that exist on autos, boats, airplanes, jewelry, and furs effective January 1, 1992.

Now, how is it paid for? Our package is deficit neutral according to Treasury and OMB scoring. The amendment includes offsets of \$9.3 billion over 5 years from the following spending re-

ductions or offsetting receipt proposals in the President's fiscal year 1993 budget.

One, 1-year extensions of 3 provisions scheduled to expire at the end of fiscal year 1995. And those are, A, a limit on lump-sum distributions from Federal Government pension plans; B, custom user fees; C, patent surcharge fees.

Two, we have a suspension of the statute of limitations which bans collections of student loan defaults.

Three, we apply Medicare part B limits on physician fees that can be charged to Medicare beneficiaries to health care provided to Federal retirees.

Four, we improve the way the Veterans Housing Administration evaluates the cost effectiveness of disposing of foreclosed properties.

And five, we authorize the sale of \$1.1 billion a year from the national defense stockpile. The stockpile was created to set aside critical materials for national defense emergencies. This proposal would reduce the stockpile by about one-half of its current level of \$9 billion to \$4.5 billion.

Now in this proposal, Mr. President, there is no provision for any \$500 dependency deduction allowance increase. Many people have asked about this. This is literally the President's seven bare proposals plus the repeal of the luxury tax on all items to which the luxury tax now applies.

I indicated earlier in the day that I did not think any of the plans that had been proposed—not that is passed in the Ways and Means Committee in the House, not that came out of the Senate Finance Committee and is pending, nor the President's—is going to catapult this economy from a 1-percent growth to a 5- or 6-percent growth in 6 months. As I indicated, I do not think any of the plans are going to catapult the economy into a dramatic increase in the next 6 months. And I think we would be wise to tell the public vary frankly that none of these bills are the long-term solution to the problem facing the country.

We all know what that is. We have been spending too much and saving too little and we have been doing it for the better part of a quarter of a century. We have been doing it under Democratic Presidents, Republican Presidents, Democratic Congresses, and when it was split with the Republicans having the Senate and the Democrats having the House.

It has been bipartisan in our attitude and therefore I think I can say without trying to blame anybody—Republicans or Democrats, the Congress or the President—that all of us have had a hand in the last quarter of a century in not making any serious effort to tilt us towards savings and investment and capital formation that allow us to buy the machines that produce family wage jobs and keep us competitive in the world.

The amendment we will be offering is not a long-term tilt away from consumption and towards savings. It is a nudge in that direction—a nudge, but not a long-term commitment. But, then, none of the bills we are considering are.

Unfortunately, I think we had the opportunity to move in that direction at one time in the Finance Committee when we were considering this bill. There was a hope that you could sense a gelling, when we were meeting in the room behind the hearing room with just the members and some staff. We, very frankly discussed among ourselves the need to one day move towards savings incentives and away from consumption. We all nodded our heads. And in the huddled meetings you will find in the cloakrooms or the whispered conversations at the dining tables, we all admit that is what we need to do. And I think Mr. President, the opportunity is there to do it if we seize the moment now.

For those who say it is too late, it is too close to the election, that is not true. When the time is right and the iron is hot, you can move very quickly. I think the time is right and the iron is hot if we are willing to say to the President and the President is willing to say to the Congress, let us both put aside partisan bickering.

I do not want to say "partisan differences," because there is legitimate partisan difference in politics, but put aside the bickering and say, as a matter of philosophy, let us move toward a tax system that will encourage savings, investment, buying machines that produce family wage jobs.

But I think the opportunity is ours to seize in this body right now if we want to do it, to offer that olive branch to the President. I have not talked to the administration directly about this, but I think the administration would be receptive to receiving that offer.

But at the moment I fear what is going to happen, the bill that is before us is going to be passed. It is going to be vetoed. We all know that. A bill similar to this passed the House only 221 to 209 or 210, clearly enough votes to easily sustain the veto. So the Republicans will have a partisan issue that they have voted against a bill that increases taxes on some people. The Democrats will have an issue to say the President has vetoed a bill that raised the taxes on the rich. And maybe each party says: That is it. There is not going to be any more tax bill this year. We each have our issue. Let us go to the electorate.

I hope that is not it. I hope we get this bill over with quickly and take the opportunity to pass a really meaningful bill.

But, in the meantime, while we are debating this bill, the amendment I will offer in a few moments is an amendment that, at least of the 3 pro-

posals we are considering, has passed the House. It is now before the Senate out of the Finance Committee. And the President's, of the three, is the best. So I hope it will receive fair consideration in this body.

But, if it does not, I hope we very quickly pass the bill we have before us. I am going to vote against it. I realize it is going to pass. Vote it. Get it to the President. Veto it. Sustain the veto, in the hopes we get on to actually enacting a bill so we can honestly say to the voters: This is not going to change the direction of this ship by November. It is going to take us 2 years, 4 years, 6 years. It has taken us 25 years to get here. It is going to take us a few years to turn around. But we can at least say by the end of this century we will have turned this ship around and will be heading in the direction of an increased savings rate and effective competition throughout the world and a return to family wage jobs.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am about to offer the amendment on behalf of the Republican leadership. We had hoped that we would get some time limit. We would have been satisfied with 2 hours equally divided, but I do understand the chairman and the others would like to see the amendment and have some time to study it.

I think we have reached more or less a gentleman's agreement that a point of order will not be made against it very quickly so there will be no time to debate. Given that understanding, I am now prepared to offer the amendment.

AMENDMENT NO. 1709

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. DOLE (for himself, Mr. PACKWOOD, Mr. DOMENICI, Mr. CHAFEE, Mr. DANFORTH, Mr. HATCH, Mr. SYMMS, and Mr. HELMS), proposes an amendment numbered 1709.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. PACKWOOD. Mr. President, I made my comments on this before. They were straightforward and abbreviated, and I think in my comments I

covered all the points that are in the amendment. I will be happy to respond to any questions I can to clarify it, although the points I made were quite simple and I think covered everything that is there.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, certainly I want to preserve my right to make my point of order, but I do not intend to cut off the debate before we have our 2 hours. I am prepared now to enter into an agreement on the majority side with the minority, if it is agreeable, on a 2-hour limitation, the time equally divided and controlled by the manager for the minority and myself for the majority.

Mr. PACKWOOD. Mr. President, would it be the hope that we would vote tonight?

Mr. BENTSEN. We certainly would. That is my hope.

Mr. PACKWOOD. Assuming all the time is used up, we will be voting about 9 o'clock, 5 after 9.

Mr. BENTSEN. That is correct.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that there be a time limitation for debate of 2 hours equally divided in the usual form; that when all time is used or yielded back, the Senate vote on or in relation to the Packwood substitute; provided that no points of order be waived by this agreement; and that if a point of order is raised and a motion to waive the Budget Act is made, there then be 20 minutes equally divided in the usual form on the motion to waive the Budget Act; and that no second-degree amendments be in order to the amendment.

Mr. PACKWOOD. That is fine with us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BENTSEN. I yield such time as I may need.

Mr. President, we are not interested in creating legislative gridlock in this situation. We are engaging in a protracted partisan debate and that is pretty obvious when, as manager of the bill for the majority, I have agreed to a relatively short period of time, 2 hours.

I went to great lengths to see that the administration's growth proposals were included in the Finance Committee bill. I want to emphasize that point. This bill contains all of the

growth ideas in the President's bill, admittedly in some modified form on some of them. Some of the proposals are virtually identical to the President's proposals. We have slightly altered others.

But an example of that is we included the administration's proposal to eliminate ACE, the current adjusted earnings depreciated adjustment for corporations. We included a slightly modified version of the administration's proposal to modify the unrelated business income tax rules to facilitate real estate investments by pension funds. This is something I discussed with the Secretary of the Treasury about a year ago urging that that be done, open up a new avenue of resources to try to help stabilize the real estate market.

We have included the administration's proposal for penalty-free withdrawals from IRA's for first-time buyers and that was in the Bentsen-Roth IRA proposal. We have had that one for some time with some 78 Senators, bipartisan support. We have included the administration's proposal to provide an investment tax allowance which provides a temporary acceleration of depreciation deductions. I admit we had to reduce that from 15 to 10 percent because of a mistake by both Treasury and the joint tax on the revenue estimate, because I was insisting that we comply with the budget agreement and do it without exception.

The credit for the first-time home buyers, we included the credit for them and made the following improvements: The finance home buyer's credit is a more efficient use of taxpayers' money because it is targeted at new construction, and that is what we are trying to do, to give some impetus to this economy. According to the National Association of Homebuilders, our home buyer credit will produce 320,000 jobs in 1992.

The proposal that my colleague is offering costs over \$5 billion and will add to that deficit, and that, in turn, adds to mortgage rates. Housing affordability is a direct function of lower interest rates. Their deficit finance credit will actually act to deter some first-time buyers. Our home buyer credit will make housing more affordable. It will create jobs, accomplish both of those objectives without causing interest rates to rise.

We have included the administration's proposal to provide passive loss relief to real estate entrepreneurs. Any passive loss relief should be aimed at restoring a level playing field between real estate entrepreneurs and other entrepreneurs and help stabilize—and this is an important point—the value of existing properties, and that includes the RTC and the FDIC properties, without providing an incentive to add to the existing oversupply or revive tax shelters.

The finance bill accomplishes each of those objectives. Even though the Re-

publican proposal costs just as much as our proposal, it does not help the RTC in the selling of its inventory of property. Our bill would help the RTC since it provides relief on all property purchased by an entrepreneur. Because their proposal only provides relief on those buildings the developer actually developed, it provides an incentive for developers to build new buildings, and that is our problem now on commercial property, a high percentage of vacancy in most of the cities. Thus, rather than help stabilize the prices of existing properties, the likely result will be construction of more office buildings, which will drive down the price of existing properties.

The reason why their version costs just as much as ours without providing the help to the RTC or the real estate market in general is simple. Under their proposal, a developer who qualified for relief could completely zero out his or her income, pay absolutely no taxes, and that is unacceptable. No one could zero out his or her income under our bill since it limits the amount of income that a developer can shelter.

I think our passive loss relief is much more cost effective. It will increase the value of existing properties, including RTC properties, without providing an incentive for new construction or revival of the sheltering problems we had as a result of the generous rules of the 1981 act.

Now, let us get to the luxury tax. This amendment repeals the luxury tax. Our bill also includes repealing the tax on all of the items except autos, but we liberalized that tax on the valuation of the autos by indexing the \$30,000 threshold.

Now, you know that the luxury tax was the product of highly political negotiations during 1990, certainly not a tax I would have chosen in the abstract, and the problems of the economy have grown far beyond what was anticipated when the luxury tax was enacted.

Now, the bill repealed all the other luxury taxes, but not the luxury tax on autos, for two reasons. First and foremost, there is the problem of paying for repeal, since the repeal will cost over \$1.5 billion over 5 years.

My second reason, which relates to the first, is the administrative cost of the tax on cars. Unlike on other goods, it is less than the taxes raised. We had a situation where the cost of administration on some of these where the tax was put on was actually higher than any revenues we ever collected. But that is not the situation on automobiles. Our bill includes indexing that \$30,000 threshold in the market to ensure that more cars are not subject to the tax simply because of inflation. That is what we can afford and that is what we included.

And then on capital gains—and that is a tough one—we tried to strike a bal-

ance on a very contentious issue by providing for a progressive capital gains tax cut. The structure is consistent with our efforts to restore equity to the Tax Code and provide tax relief to middle-income families. While the bill provides a capital gains tax cut for over 99 percent of all taxpayers, the benefits percentage-wise are larger at the lower end of the income scale.

And, finally, unlike the proposal of the administration, we pay for the tax cuts. That is the way we used to do business around here, and it is the way we should start doing business again.

I would like to point out that the President, in his State of the Union Address, stated:

Never has there been an issue more demagogued by its opponents, but the demagogues are wrong and they know it. Sixty percent of the people who benefit from lower capital gains have incomes under \$50,000. A cut in the capital gains tax increases jobs and helps just about everyone in our country.

Well, if most of the people who benefit from this proposal make less than \$50,000, then the administration should not have any problem with our capital gains proposal because it would provide relief to more than 95 percent of those taxpayers who realize capital gains and, percentage-wise, it would be more generous to middle income than to high income.

I think the biggest point of all, the one I kept insisting on as we were drafting our legislation, was to be sure we complied with the budget agreement of 1990, and that is one that I really think the President has made a serious mistake on when he stated, in response to the Buchanan attacks, that he had made a mistake in participating in it. That is the only serious discipline we still have here so far as trying to stay within budget agreements, and that is what we have done in our piece of legislation. It was not an easy package to put together. The easy way would have been to resort to some of the shifting sands of creative accounting that the administration proposed when it took the PBGC and talked about accrual accounting and bringing revenues that were anticipated in the year 2000 to present value and taking, as I recall, something like \$19 billion of credits on that one.

Let me say that the Democratic members of the Finance Committee were unanimous in agreeing that every item in this bill had to be paid for, and it is. This bill pays for itself. It does not add a nickel to the Federal deficit over the next 6 years. In fact, it lowers the deficit by \$6.5 billion during that period. We are not shifting the cost burden back on working families, nor are we shifting the costs to our children.

Second, our bill goes beyond this amendment. Our bill provides tax incentives for education, low-income housing, research and development,

and provides much-needed reform to our health care system.

Third, it helps put some fairness back into our tax system. At the heart of this bill is a permanent \$100 tax credit for each child until that child turns 16.

For a family of four making, with two children, \$35,000 a year—and that is the median income of this country—that family would have a 25-percent income tax cut; a \$600 tax reduction. About 20 million American families, middle-income families, would benefit from the tax credit alone. And millions more would benefit from the other tax provisions.

Our legislation is a fair, fiscally responsible way to pay for putting some fairness back into the tax system. It would increase the marginal tax rate from 31 percent to 36 percent for families with taxable income over \$175,000. That is taxable income.

If you look at all of the deductions, you know you are talking about something substantially more than that. Back in 1985, President Reagan proposed a 35-percent rate on everyone earning more than \$70,000 working at the rate of 28 percent for the vast majority of those taxpayers. Even with those changes, the top 1 percent will remain far ahead of where they were in the sixties when the top bracket was 91 percent; in the seventies when it was 72 percent. The top bracket would be half the 1970 rate and remain substantially lower than the top rate today in Japan, Germany, or the United Kingdom.

I am convinced we have a comprehensive and equitable bill, and I urge my colleagues to vote against this amendment.

Mr. PACKWOOD addressed the Chair. The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield myself 3 minutes.

Mr. President, I want to clarify one thing that the chairman has indicated about rates, high rates and low rates, and whether or not those who have high incomes are better off now than they were in terms of rates, because rates are an amorphous thing.

He talked about the 90-percent rate, 92-percent rate at one time, the 70-percent rate. The key in how much you tax somebody is not the rate. The key is what you levy the rate on. Let me use an example. At the time we had a 92-percent rate in this country nobody paid 92 percent, not if you had any kind of an accountant that gave you any advice at all. You paid a much lower total amount of taxes than 92 percent on your total income.

Let us say you had a million-dollar income and you had all kinds of deductions that you could deduct from the million dollars before you figured the 92-percent rate. Let us say you had \$900,000 in deductions, so that your taxable income was \$100,000. Then you paid

92 percent on the \$100,000. So you paid \$92,000 on \$1 million of income. In essence something closer to a 9 or 10-percent rate than a 90-percent rate.

However, you can lower the rates significantly. This is what we have done over the past years. We did it in the tax reform bill, and increased the amount of revenues that you collect from the rich by eliminating deductions. That is exactly what we did in 1986. We eliminated deductions and lowered the rates. But after the 1986 tax bill passed, it was actually slightly more progressive. It collected a slightly higher percentage of its money from the rich than it did before it was passed.

So let us not try to confuse the issue by saying Germany has higher rates; Japan has higher rates. The real key is upon what base of income do they levy the rates? If you have immense deductions from whatever your income is, and then the rate is taxed, that may end up being a lot lower tax than a lower rate in which you are entitled to next-to-none or, in some cases, no deductions.

I yield the floor.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. BRADLEY. Mr. President, I thank the distinguished chairman.

I rise in opposition to the pending amendment. I think it is excessive, I think it is ill-timed, and I think that, frankly, it is a rather modest or superfluous amendment.

We are in the middle of a recession, we have major structural adjustments going on in our economy due to the end of the cold war and international competition, and we have a mushrooming deficit. The amendment that is now before us contains elements which will do nothing to help with any of those problems. It has a capital gains provision that not only gives away a lot of money to upper-income Americans, but it also does so in three ways.

As a matter of fact, this might be called President III. President I was where you had three exclusions of income, 15, 30, and 45.

Now this will allow the sale of a closely held business not to be covered by alternative minimum tax. So conceivably a closely held business could be sold and, if there is sufficient deductions to offset the regular tax, it will not be captured under the alternative minimum tax.

Mr. President, there is another section of this bill—passive losses. At a time where you have 20 percent vacancy rates in real estate, we are now going to give real estate developers more subsidies so they can build more buildings so we can have even higher vacancy rates. It does not make any sense.

Then we have the investment tax allowance which essentially accelerates depreciation. This favors certain kinds of capital intensive industry over all of the rest of the economy.

The basis, though, of tax reform was to eliminate these distortions, and allow the market to allocate the resources. This amendment goes in the exact opposite direction of what we did in 1986. It is ill-timed, and it is not going to move our economy ahead out of this recession. All of these provisions are going to come on too late after monetary policy has already begun to move the economy.

Keep in mind the amount. Is this amount of incentive, even if you believe it was well-timed, going to jolt the economy out of this recession? Let us see. How much money is this going to provide? This is going to be in this year \$3.4 billion, the next year \$4.4, and in a \$5 trillion economy is this going to be sufficient to jolt the economy out of recession? This is ludicrous.

In addition to that, of course, the beneficiaries of the capital gains, and of the passive losses, are disproportionately the wealthiest people in the country. The top one-tenth of 1 percent will benefit the most from this to an excessive degree.

Mr. President, I hope we will reject this amendment out of hand, because it is a giant giveaway, a bigger giveaway than is even in the Finance Committee bill. As everyone in the Finance Committee knows, I am not a big fan of the passive loss provisions in the Finance Committee bill or the capital gains or the investment tax allowance. We might revisit that later. But the point is, the provisions in this amendment are worse than the provisions that are in the Finance Committee bill.

So I hope that we keep our eye on what we need. We need deficit reduction. This does not reduce the deficit. This will increase the deficit over time. We need structural adjustment to international competition and the end of communism. This does not do anything to help us adjust either in terms of education or health or whatever.

Finally, this does not jolt us out of the recession. To the contrary, it is a piddling amount; amplified with the loudest of loudspeakers, it will have no effect whatsoever on the economy except to enrich a few special interests and some of the wealthier special interests.

So, Mr. President, I hope that we reject this amendment and move on to the rest of the bill.

I believe that if we move on to the rest of the bill there might be things we need to revisit, but the point is that this amendment is excessive and should be rejected and rejected handily.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mr. SEYMOUR. Mr. President, I rise this evening to speak on the package offered by the minority leader and the ranking member of the Finance Committee to commend them for their hard work.

I also want to commend the chairman of the Finance Committee for the work that he has put into the bill. However, I find it very deficient. I find the bill deficient because it misses the mark.

Mr. President, the sole criteria that we should be using on this economic growth package is, will it create jobs?

This is a blowup of a letter from one of my constituents in Joshua Tree, CA, which is brief and to the point: "Senator SEYMOUR, I don't need a tax cut. I need a job." His message, and that of all Californians is clear and succinct: "How is Congress going to create jobs?" That is what this proposal should be all about.

Mr. President, in my State of California, we are hurting. Last year, California alone lost over 600,000 jobs. That represents 1.2 million people out of work, and they need jobs. They don't want pandering or a handout. They want work.

What I am fearful of is that the bill the majority party is pushing panders to the voters in an election year, but does not nearly do what it should in creating jobs.

So, Mr. President, while we look at a tax bill that will increase taxes over \$57 billion by the period ending in 1996, I ask myself how many jobs will that create.

Let me talk about just one aspect of the amendment that the distinguished Senator from Oregon is offering this evening on behalf of the President's package, and that is the first-time home buyers' tax credit of \$5,000. There is a tremendous difference between the credit offered as a part of this amendment and the credit offered as a part of the Finance Committee bill. I heard the distinguished chairman talking about the fact that the Democratic home buyers' tax credit was good for construction and for construction only, and that it created jobs. Well, he is right, to a point. But what he is missing is the ability to create hundreds of thousands of more jobs by having the tax credit apply not just to new houses.

Let us do the job right. Let us really create jobs. Let us apply it to all housing, including existing homes.

Mr. President, the substitute amendment and the Finance Committee bill offer two very different proposals; one offers a tax credit which is limited to new construction, and one offers all first-time home buyers a shot at the American dream. Specifically, the Democratic proposal will not help 80 percent of the first-time home buyers of America. Why do I say that? Because only 20 percent of the first-time home buyers of America can afford to buy a new home.

You see, Mr. President, if you understand the housing market well, you understand that an integral part of the market is a move up. Maybe there is a retired couple living in their home and their nest egg is in that existing home. The house has become too large for them and they would like to move. They would like to sell. They need a first-time home buyer to buy their home. We would like to give that first-time home buyer a \$5,000 tax credit to help them buy that home. Unfortunately, the Democratic proposal will make it harder, rather than easier, for the retired couple to sell their home because it discriminates against the purchase of existing homes like theirs.

Another instance is where a family is growing, they have equity in their home, and they would like to sell it and move up to a larger home to accommodate new family members. This is the move-up market, Mr. President. Again the Democratic proposal will make it more difficult to sell their home by discouraging first-time home buyers—who would naturally follow in their footsteps—from purchasing their home. This limited proposal is at complete odds with how the housing market works.

The overall decline in the real estate market has placed a much greater reliance on first-time home buyers. In fact, first-time home buyers accounted for almost one-half—45 percent actually—of all home purchases in major metropolitan areas in 1991.

Again, the limited proposal falls short because it discriminates against urban areas and communities that are already "built-out." It discriminates against inner-city residents who often cannot afford to buy a new home, especially if it is located in distant outlying suburban areas. Our alternative will give all an opportunity to take advantage of this tax credit.

And what kind of homes were these first-time buyers buying? The median price paid by those first-time home buyers for existing homes was \$99,900, versus \$120,000 for new homes. Clearly, unless we apply this first-time home buyers tax credit to all first-time homes purchased, both resale and new homes, we will miss the mark, and tremendously so.

In 1991, there were 3,791,000 homes sold, and 86.7 percent of those almost 4 million homes were existing homes. Only 13.3 percent were newly constructed homes.

Mr. President, the Democratic plan is at complete odds with the way the housing market works. The demand for new housing is driven by the existing housing market. Consumer demand for housing spurs new construction, but new construction is not driven by the first-time home buyer segment of the market, since only 20 percent of first-time home buyers purchase new homes.

So what we have in the Democratic proposal is some window dressing that sounds good. But when you look underneath that window dressing, Mr. President, there is less than half a loaf.

We need to offer this credit, Mr. President, to all first-time home buyers because the sale of a home triggers a whole sequence of events, a ripple effect that stimulates business throughout the economy, through the sale of furniture, of appliances, and of all the other items associated with home buying. Each time a home changes hands, the dollars spent on the home purchase multiply through the economy and create jobs. To be more specific, Mr. President, every \$1 spent on new housing in California generates \$2.56 in economic activity. The same dollar in the resale market will generate \$2.12.

So, in the first place, you have a dollar of new construction turning over in the economy and generating \$2.56. If you spread the program to existing homes as well, you pick up another \$2.12 in economic activity for every dollar spent. Moreover, every \$1 million spent in the new home market creates 29.6 jobs, and the same dollar in the resale market will create an additional 22 jobs.

So it seems very clear to me that the Democratic proposal, by severely curtailing the potential benefits of the credit, really misses the mark in the area of homeownership. What does do the job in this particular area is the amendment the distinguished Senator from Oregon [Mr. PACKWOOD] has offered on behalf of the minority leader.

Finally, let me say, Mr. President, in closing, that there are other aspects of the Finance Committee bill that fall short of the mark, the mark being: Will it create jobs and will it do the utmost to create jobs as opposed to simply pandering to the voter and the taxpayer in this election year?

The first failure has to do with the investment tax allowance. Again, we get some window dressing from the Democratic version, whereas the President's proposal hits the mark—it will create jobs.

Second, on the research and development credit, a fiscal incentive that is extraordinarily important to my State of California where we have high substantial high technology and bio-

technology industries. The R&D tax credit is very important and the President's proposal makes it permanent. In contest, the Finance Committee proposal will extend the provision for only 2 years—until the next election—and thereby continuing the problem.

Mr. President, such policies are shortsighted. Why do we not forget about the elections of 1992, just for a moment, and focus instead on those who are unemployed and those who are barely employed?

Let us throw down the partisan swords, and let us do what is right for America. I want to see done what is best for California, and that is to put people back to work. That should be the litmus test for every provision of the President's package as well as the Finance Committee package: Will it create jobs? I suggest to you that the proposal we have before us as an amendment will do just that.

I yield my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield 7 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah, Mr. HATCH, is recognized for 7 minutes.

Mr. HATCH. Mr. President, I thank my colleague. I would like to briefly mention several of the provisions included in the amendment.

This amendment includes several provisions that will boost the real estate market including relief from the passive loss rules and a tax credit and penalty free IRA withdrawals for first-time home buyers. These provisions would raise the value of real estate, and help the real estate market and the American recovery rise out of the current recession.

It would also raise the value of the properties held by the RTC. And that would help every taxpayer in America.

So it makes sense; it is economically sound.

This amendment also includes a capital gains exclusion. This exclusion would provide an incentive for individuals to increase investment in capital assets. This provision would lead to greater availability of capital and thus lower the cost of capital in this Nation.

The investment tax allowance provided by this amendment will accelerate the cost recovery of new investment in business equipment. This proposal would encourage businesses to speed up their purchases of machinery, trucks, and other productive equipment. The effect of this will spread throughout our economy, increasing orders and creating jobs.

Over one-third of American businesses are now paying the alternative minimum tax. Many of these companies are among those hardest hit by the recession. The alternative minimum tax raises their effective tax rate

and thus creates a disincentive for them to invest in new productive capacity. This amendment includes a provision to repeal the depreciation component of the accumulated current earnings adjustment for this tax. This would remove part of the disincentive facing these companies and encourage them to invest in new capital purchases.

This amendment makes sense. It really would help the economy.

Mr. President, the American people today are worried. The economy is in distress, and families are struggling to survive. They need and expect our help. Yet, at a time when Congress should be coming to their aid and working to create new jobs and long-term economic growth, we are mired in a political debate. This will not help the economy or the American people. Encouraging economic growth and job creation through incentive measures is the only way to truly help the American family and ensure our future world leadership position.

The bill before us contains a number of provisions that raise income tax rates and stifle the incentive for individuals to work harder, invest, and save. As long as these increases are included, Mr. President, this bill will not become law. It will be vetoed and that veto will be sustained.

President Bush has proposed an economic growth plan with seven provisions and challenged us to act on these by March 20. This amendment is based on that plan. In addition, the amendment repeals the ill-conceived luxury taxes that were passed in 1990. When taken as a package, the provisions in this amendment will stimulate the American economy. And it does not raise taxes to pay for it.

This amendment would spur job creation and economic growth. While the underlying legislation is labeled a growth incentive bill, it includes a tax increase in a misguided sense of so-called fairness. These tax increases will not create economic growth or increase tax fairness. The best thing we can do for families who are suffering because of unemployment or underemployment is to pass a tax bill that would create jobs. Let's face it. Disincentives such as higher marginal tax rates will discourage hard work and investment. We clearly need to do the opposite.

I urge my colleagues to consider what many economists have said regarding economic growth tax incentives—and that is unless we pass provisions that give incentives for individuals and businesses to save, invest, expand, and produce, we are merely shifting dollars around the economy and may well worsen the deficit. I maintain that increasing anybody's taxes—whether the so-called wealthy or not—will not have the desired effect. Consider the luxury tax. This tax was also designed to soak the rich and make the

tax system more fair. The effects, however, have been disastrous, and I doubt if there is one Member of this body who would not vote to repeal at least a portion of this tax. We need to keep our focus on incentives and on the long term. Short-term outlooks and soak-the-rich tax increases will not create jobs—they will lose them in the long run.

The amendment before us would increase investment, create jobs, and stimulate economic growth. I urge my colleagues to come to the aid of the American family and support this pro-growth amendment.

It has the President's support. We should quit fooling around and get the economy back on its feet.

I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Mr. President, I yield 5 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized for 5 minutes.

Mr. BUMPERS. Mr. President, I thank the distinguished floor manager of the bill. I thank him for yielding me just a couple minutes to talk about this proposal.

It is not all bad. There are some things in it, as a matter of fact, that I support. I support the tax credit for first-time home buyers. I support the tax credit for the use of IRA's for various purposes that are desperately needed by some people. I even support the repeal of the passive losses provisions which we put in the 1986 bill.

Mr. President, in a perfect world—and by "perfect" I mean one that does not carry a \$400 billion deficit with it—I might even support a capital gains proposal. I could not support this one under any circumstances, and as many Members of this body know, the capital gains provision in the bill is mine on which I worked for 5 years trying to get passed. We had almost 50 cosponsors on the bill this year. I am not going to discuss that. It is in the bill, and I want to thank the Finance Committee, especially the chairman for incorporating it because it is going to be wonderful for the small business community—and they are the ones who need the capital. Venture capital is so tough to come by, and this bill is going to be a tremendous help to the small business people of this country. And they are the ones, Mr. President, who produce the jobs.

How many times have you heard it? It does not hurt to repeat it one more time because it is so true.

Mr. President, this capital gains provision carries, between 1992 and 1997, a loss to the U.S. Treasury of \$18 billion. I am obsessed, literally obsessed, with the Federal deficit. I am not going to vote for anything tonight, tomorrow,

or the rest of this year that exacerbates that problem. Worldwide, our No. 1 problem is the population is out of control. In the United States our No. 1 problem is the deficit. Pollsters say do not talk about the deficit because there are no votes in it. Incidentally, I disagree with that. Whether there are any votes or not does not remove or obviate the point I just made.

And that is, it threatens the economic viability of this country. And it is not going to be long before it happens, if we do not get serious.

Mr. President, in this particular case, this capital gains provision is not designed to stimulate the economy because it is retroactive. I bought my farm almost 30 years ago. If this bill passes—I do not want to sell my farm—but if this capital gains provision becomes law, I am going to sell it, because this provision will save me \$30,000 in taxes. And I am going to turn around and I am going to buy stock in some of those wonderful Arkansas companies; WalMart, Dillard, Tyson's, J.B. Hunt. We have some great stocks on the New York Stock Exchange, all of them wonderful.

Let us just assume I am going to take my profit, a couple hundred thousand dollars, and put this in the stock market. Do you know how much economic activity that is going to generate? One brokerage fee for some brokerage house, and that is all. And I will have ripped the Government off for \$30,000. This is not even prospective, designed to encourage people to invest now in a risky investment in exchange for a favorable tax rate down the pike.

On the night the President delivered his State of the Union Address, when he said, "Please pass my capital gains tax," he said 64 percent of the people in this country who benefit from this make less than \$50,000. And if you do not study statistics and you did not really pay any attention to what he was saying, that can be very misleading.

First 1, only 7 percent of the people in this country take capital gains; 93 percent do not take any capital gains. It may be true that 64 percent of the people who take capital gains make less than \$50,000 a year. But what the President did not tell us is that that 64 percent get about 10 percent of the benefit.

Mr. President, do you know who gets it? And I am not opposing the rich. I have been trying to join them all my life. But do you know who gets it? Seventy-seven percent of the \$18 billion this costs goes to people who make over \$100,000 a year; 62 percent of it goes to people who make over \$200,000 a year. And, Mr. President, the people who make \$20,000 or less who take capital gains make, on an average, \$65. Now, you think about that. If you make \$200,000 or more, you get 62 percent of this \$18 billion. And if you

make \$20,000 or less, you get about 3 percent of it, an average for the people in that category of \$65 each.

Mr. President, there was a New York Times article the other day about how 77 percent of all the income increase in this country, 77 percent in the past 14 years, has gone to the wealthiest 1 percent of the people of the country. I have a lot of wealthy friends, Mr. President. They do not think that is fair. They do not agree with that. Nobody would agree with that.

And so, somehow or other in our tax policy, we are going to have to come to grips with the fact that the middle class really has been taken. This is not just political rhetoric; it has happened.

The PRESIDING OFFICER. The Chair informs the Senator from Arkansas that the time allocated to him has expired.

Mr. BUMPERS. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, while we are waiting for the next speaker to come to the floor, I would like to simply reflect once again on a few of these provisions, capital gains, passive losses, and the investment tax account.

Passive losses is a very interesting provision. It was put in the 1986 Tax Reform Act as an attempt to raise sufficient revenue to balance the overall revenue of the bill. And it removed tax benefits from real estate investors. They were no longer allowed to passively invest, take the deductions from interest and depreciation among other things, and deduct them against their other income. Dentists and doctors, who were making a lot of money, invested in buildings, and they had all of this loss thrown off. And in many cases, they used all those losses to reduce their taxable income and ended up, in some cases, paying no tax. We ended that in 1986.

One of the amazing things that I discovered in the last several weeks with regard to passive losses is that I find people coming in and lobbying that we reinstate passive losses. And I ask them, "Well, when did you make that investment in real estate, that investment that has gone bad?"

And they say, "Well, we made the investment in 1988 or 1989." In other words, when there were no passive losses in the code. So you had individuals who knew full well when they invested that they were not going to get these benefits. They make the investment and for whatever reason—bad judgment, tough times—it does not turn out, and instead they come to the Congress and say, "Well, now we need passive losses."

Mr. President, in my view, that is shortsighted. It benefits disproportion-

ately the very wealthiest in the country. And I hope we would see it for what it is.

In the Finance Committee, I attempted to knock out the provision on passive losses and the investment tax allowance and capital gains; I attempted to use that money to provide for refundability of the children's tax credit for the 25 percent of the poorest kids in the country. It did not pass.

And I do not like the provisions in the Republican alternative any better than I like those provisions in the bill that we reported out of the Finance Committee. In fact, I like them less, because they are more generous. They increase the deficit more.

And we have joked around here—it really isn't a joke—that we are going through this exercise, the President will veto the bill, and then we will come back and maybe we will do something and maybe we will not. More than one Senator has come up to me and said: "Do you know what we really need is no tax bill at all." I mean, that is going to be the outcome: no tax bill at all. And that is what a number of Senators on both sides of the aisle have asserted as to what is a desirable outcome.

The question then is, well, Why are we going through this? Why are we going through this exercise if that is the outcome that we want? And I view this proposal as just the latest example of that folly.

The speeches have been made over here that this amendment is going to jolt us out of the recession. If this amendment passed, it would mean \$3.4 billion in the pockets of some of the wealthiest Americans in 1992.

Does anyone believe that \$3.4 billion to the real estate interests or to the capital gains specialists is going to be sufficient to jolt a \$5 trillion economy ahead? I mean, it boggles the imagination that someone can actually stand up and assert that.

Mr. PACKWOOD. Leverage.

Mr. BRADLEY. The distinguished Senator from Oregon says the key is leverage. Well, if \$3 billion is leverage for a \$5 trillion economy, I do not think that is leverage as much as it is snake oil, as much as it is a magic potion that is going to transform this economy.

Mr. PACKWOOD. Will the Senator yield for a moment?

Mr. BRADLEY. I will be glad to yield if I can yield on the Senator's time because I am not sure whose time I am yielding.

Mr. PACKWOOD. I have never said this bill I am going to introduce is going to cause this economy to catapult. Of the three things we have before us, the House bill, the Finance Committee bill, and the proposal the Republicans have put in, the Republicans' is marginally the best of the three.

None of these are going to catapult us from 1 percent growth to 1.5 percent

growth, let alone 5 percent growth, and none of them go in the direction that you and I have talked about over and over, in the direction we know that this country has to go. But we are not going to do it on this bill, so let us get rid of this bill and, hopefully, move on to something that will do it.

That was on my time.

Mr. BRADLEY. I respond simply by agreeing with the distinguished Senator from Oregon about what we need to do. I am very glad. I am going to carefully monitor the remarks of Members on the other side. I know the distinguished Senator from Oregon has not said such a thing. But I think I have detected from other speakers that they have the expectation that this is going to push the economy ahead.

It is just not going to happen. Maybe we will end up with what many people believe is the best alternative, which is no tax bill. We have gone through this exercise in the process. In one sense that is regrettable.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico, [Mr. DOMENICI], is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, while we are going to have a few minutes later on to talk about a point of order and a motion on the part of the distinguished Senator PACKWOOD, to that point of order, I want to raise an issue that bothers me. I do not quite have it figured out yet but perhaps in the next hour or hour and a half I will. I have been at this budgeting business for a while. I have seen a lot of different innovative things used. But, frankly, the Senate ought to know this is a very, very odd duck, this bill. I mean it is a rare bird.

Let me hold up for the Senate S. 2325, this little thin bill. This bill was sent to the desk and then, later on, this other bill, originally H.R. 4210, was sent to the desk.

Would you believe, as I understand it, that this little bill, S. 2325, is still at the desk? It is going to be, at the end of the session, thrown into the garbage heap. But it is an important little bill because of some authority the chairman of the Budget Committee has. It has to do with a little-understood provision called a "reserve fund." He has the right to add some allocations to a particular committee. Apparently, that was done to this little bill. So we have the reserve fund activity added to this little bill.

Everybody would be anxiously wondering how is it going to be used, that reserve fund. Is it not wonderful, the magic of the Senate? It is not going to be used in this bill, because this bill is going nowhere. But to make this bill so it is not subject to a point of order

somehow or another, the magic said move that reserve fund from this little bill to this big bill.

I am not at all sure that, when we are through with all the numbers, that trick is going to work. But I assure you that, while I have not used very much technical language here, what I have described is exactly what happened. All because the big bill that has the Democratic recovery plan—I say that guardedly and in parentheses because that is what they sort of call it—depends on some money that was put in this little bill moving over to this one, to avoid a 60-vote point of order.

Maybe before the evening is over we will find that this one needs 60 votes because they may not have done all their arithmetic right. But we will take that up in a little while. That is the magic of reserve funds and tax bills, as I choose to call it tonight.

Having said that, let me talk a moment. I do not think anyone is kidding anyone. The Democratic underlying bill is really not an economic recovery or jobs bill. If it passes and gets signed, no one can stand on that come November and say the legislation caused a recovery. I do not believe they really think that.

I think they may be saying, "Let us pass it. We will take a chance. And the economy is recovering anyway. And maybe with this bill we can fool the people and say our legislation did it." But it really will not.

We can show that 60 to 65 percent of the tax increase, which is said to be a tax on the rich will be added to returns with small business income. If businesses are partnerships, they pay taxes on their income. If partners choose to be this strange kind of corporation, subchapter S corporations, they pay taxes as individuals. So all their income is taxable in the year but they do not necessarily have it to spend. Sixty to sixty-five percent of these rich people that are going to get hit with this new tax are that kind of Americans.

You know what that is going to do? It is going to cause those kind of business people to do less for the economy instead of more. They are going to be taxed more. They are not going to quite know what this all means. It is very complicated. But they are going to be taxed more on income that they earn but do not take out of their partnerships, and S corporations. And the supporters of this bill are running around saying that kind of tax is not harmful to the economy because it means equity and fairness.

It is neither. It is neither equity nor fairness, nor is it economically sound for our kind of enterprise, our kind of entrepreneurial economy. That is a giant difference.

When anyone stands up and says the Democratic bill is like the President's, I have to disagree. The Democratic bill does not come close to accomplishing

the seven things the President wanted. We could spend time on each one, and, instead of spending the time, I will put a side-by-side comparison in the RECORD for anyone who wants to look at it. It is substantially different.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

Despite what it's supporters contend, the Senate Finance Committee reported bill does not incorporate the President's short-term growth proposals. The comparison below illustrates:

## CAPITAL GAINS

President—Republican substitute	Senate finance
The President proposes a sliding scale exclusion, specifically a 15-, 30-, or 45-percent exclusion for capital gains held by individual taxpayers for 1, 2 or 3 years respectively. For a taxpayer whose capital gains would otherwise be subject to a 28-percent rate, this would result in a regular tax rate of 15.4 percent for assets held 3 years or more. The sale or exchange of real estate or a closely held business is not treated as a preference item for AMT.	A capital gains tax rate of 5, 19, 23, or 28 percent would apply depending on the individual's taxable income. The amount of the capital gain is "stacked" on top of other income. The portion of the capital gain in 15-percent income tax bracket would be taxed at 5 percent, the portion in the 28-percent bracket would be taxed at a rate of 19 percent, etc. The new rates would apply for qualified capital assets held more than 2 years.
Effective date Feb. 1, 1992. 1992-96 revenue cost \$11.9 billion. (Treasury estimates this proposal would raise revenues by \$5.2 billion).	Effective date Feb. 1, 1992. 1992-96 revenue cost \$7.7 billion.
<b>Investment tax allowance</b>	
President's proposal would allow additional 1st-year depreciation equal to 15 percent of the purchase price of a qualified asset during 1992. The basis of the property for future depreciation would be reduced by the 15 percent ITA.	Senate Finance would allow additional 1st-year depreciation of 10 percent during 1992. The basis of the property would be reduced by the 10 percent ITA.
Effective for equipment acquired on or after Feb. 1, 1992 and before Jan. 1, 1993 and placed in service before July 1, 1993. 1992-96 revenue cost \$2.3 billion. (Treasury estimates a revenue cost of \$3.8 billion).	Same as President.
<b>Simplify and enhance AMT depreciation</b>	
Proposes to eliminate the depreciation component of adjusted current earnings (ACE) for corporate AMT purposes.	Same as President.
Effective for property placed in service on or after Feb. 1, 1992.	Same as President.
1992-96 revenue cost \$1.3 billion. (Treasury est \$—1.4 billion).	Same as President.
<b>Provide passive loss relief for real estate</b>	
President would amend the passive loss rules to permit taxpayers to treat their real estate development operations as a single trade or business activity.	Similar to President, but would apply only to property placed in service before Mar. 3, 1992.
Effective for taxable years ending on or after Dec. 31, 1992.	Same as President.
1992-96 revenue cost \$1.8 billion. (Treasury est \$—1.9 billion).	1992-96 revenue cost \$1.8 billion.
<b>\$5000 homebuyers tax credit</b>	
First time homebuyers would receive a credit equal to 10 percent of the purchase price of a home up to a maximum of \$5000. The credit would be payable over 2 years.	Similar to President but the credit would be available to first time homebuyers purchasing new homes only.
The credit would be available for contracts entered into between Feb. 1, 1992 and Dec. 31, 1992 and closed by Jun. 30, 1993.	The credit would be available for contracts entered into between Feb. 1, 1992 and Dec. 31, 1992 and closed no more than 90 days after entering into the contract.
1992-96 revenue cost \$6.1 billion. (Treasury est \$—5.3 billion).	1992-96 revenue cost \$1.5 billion.
<b>Penalty free IRA withdrawals for first-time homebuyers</b>	
President would allow penalty-free withdrawals of up to \$10,000 if the funds are used for first time home purchases.	Allows unlimited withdrawals penalty-free for first time home purchases from IRAs or other elective deferral plans. Parents and grandparents could withdraw funds free for children or grandchildren.

## CAPITAL GAINS—Continued

President—Republican substitute	Senate finance
Effective Feb. 1, 1992. 1992-96 revenue cost \$0.6 billion. (Treasury est \$—0.4 billion).	Jan. 1, 1992. 1992-96 revenue cost \$1.7 billion.
<b>Facilitate real estate investments by pension funds</b>	
President's proposal removes requirements that are considered restrictive while continuing the rules that prevent abusive transactions.	Same as President.
Effective Feb. 1, 1992. 1992-96 revenue cost \$0.2 billion. (Treasury est < \$—50 million).	Effective Jan. 1, 1992. 1992-96 revenue cost \$0.4 billion.

Mr. DOMENICI. In fact, those who buy homes, those who sell homes, and those who build homes say that this is about one-fifth as effective as the President's. The American people have already been heard from on that one. They think the President's proposal for a credit for first-time home buyers is the most exciting and most positive part of the entire recovery package submitted by anyone. They realize the package that is in the underlying bill is about one-fifth as effective as the President's in terms of buying, selling, and building homes and stimulating the economy.

I am not going to go into each provision. Suffice it to say even the 15-percent investment tax allowance, a substitute for the investment tax credit, is inferior in the underlying bill to the President's, substantially inferior.

Essentially, the big difference is that the Packwood-Dole amendment, which I know we are not going to pass because either the other side will not vote for it or a point of order will be made and we cannot get 60 votes, is significantly different because it does not raise taxes on Americans to pay for items that are supposed to be stimulative for the American economy.

I could go on beyond that, but I submit that \$65 billion in new taxes, which do what I have just described, get the majority of their money from businessmen and women in partnerships and subchapter S corporations in this country. Their small business earnings are high but their take-home pay is in their business and we are going to tax it, we are going to raise the brackets under the guise of economic stimulus or fairness. It is neither. It is the wrong thing to do and it is doubly wrong in a recession.

So I do not choose to go into a lot of other detail. There is much to be said about the underlying bill. I took 40 minutes last night and went through what was wrong with it. Can you believe that there are all kinds of new commissions, new studies, a new bailout for the coal industry, a retroactive adjustment of taxes for fishermen way back to 1984? There are all kinds of things that do not belong in there, plus the tax increase I just described. On top of all that, the seven items the President asked for are watered down and would accomplish only a fraction of what he asked for.

Mr. President, neither the Democratic nor Dole-Packwood-Domenici package are loaded with short-term stimulus. Frankly, Mr. President, I am not sure anyone knows how to dramatically stimulate an economy as large as ours with a deficit as large as we have already without doing more harm with the expenditures than what you gain from them.

So I believe this economy is going to recover. I do not believe it is going to come bouncing out and grow by 3 or 4 percent of GDP; it will be slower. I also do not believe much growth is going to occur because of these bills. But I do believe the seven proposals by the President are all on the plus side of growth. Some are short-term, some are long-term and none, in my opinion, are harmful to the American economy.

So I believe if we do anything, we ought to do what the President asked for. And I close with this remark. It is strange to this Senator from New Mexico that Members of this Senate, and I must say not Senator BENTSEN, for months asked the President, "what do you want to do? Help us with the economic recovery." Some Senators were on the floor every night, for weeks asking the President what to do. I don't know what they were waiting for. When the President told them what he wanted to do, the House threw his proposal away; in the Senate, they modified all of his proposals until you cannot recognize his plan.

I submit, if they in the House knew what to do and if the Senate knew what to do, why did they wait for the President? They ask him for advice yet they do not follow it. Some might begin to ask, why did they not enact a plan 4 months ago? They run both Houses. I yield the floor.

Mr. BREAU addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Louisiana.

Mr. BREAU. Mr. President, I ask the distinguished chairman to yield me some time.

Mr. BENTSEN. How much does the Senator from Louisiana desire? I yield 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. BREAU. I thank the distinguished chairman for yielding me some time.

Mr. President, I saw an interesting statistic the other day. It was not about the tax bill; it was about the Congress. The statistic said that 22 percent of the American people had confidence in the job the Congress was doing. I would imagine that if it says 22 percent approve of the job Congress is

doing, it must mean that a substantial majority of the American people really think that Congress, in fact, is not doing a very good job.

This is not a partisan poll. They did not say do you think the Democratic Congress is doing a poor job? It did not say do you think the Republicans in the Congress are doing a bad job? It was just a question about the Congress in general. And by a vast margin, American people think the Congress, indeed, is doing a very poor job.

As Americans throughout this country watch the debate and listen to the debate and read about what is said on this legislation, I would like to think that the American public feels that there is a real and a serious and an honest effort on the part of this body to try and come up with a package that addresses some of the main concerns of the American people.

I know in my State of Louisiana, they want Congress to do something about jobs; they want us to do something about the economy. Both of them are tied together. I think they also want us to do something about fairness in this country and particularly tax fairness because I believe the average person in this country looks back over the decade of the eighties and admits in somewhat sorrow that something went wrong in the eighties; that we lost our perspective of responsibility, community, participation and the common good and the 1980's were taken over by a period of greed, get what you can get as soon as you can get it and, I might add, as often as you can get it.

I think middle-income families in this country look back over the 1980's and they feel that all the things that were good in this country went down for them and that most of the things that were bad in this country increased for them. I believe the average American would like to plead to Congress tonight, both Republicans and Democrats, to please do something to help us; we are in desperate need of assistance. The economy in many States is close to being in shambles and they are not really concerned whether it is a Republican proposal or a Democratic proposal. They would just like to think that somebody in Congress is looking for the guy outside the beltway.

We have an opportunity with this package this evening and the next couple of days to try to turn around those numbers, that 22 percent approval of Congress. This is an opportunity to increase America's opinion of the work we do in this body.

I think the package the chairman has brought to this Senate is certainly not perfect. I know the chairman would agree with that. It certainly does not have everything that I would like to see in a tax package, nor does it have everything probably any Member of this body would like to see in a bill that affects everybody in this country.

There are some things that I fought for that are not there. There are things that I have opposed that in fact are there. But on balance, Mr. President and my colleagues, I think this is an honest effort to try to do something about tax fairness, and about jobs, and about growth in America in the 1990's.

Let me say a word or two about tax fairness. If you were a middle-income family in America in the 1980's, the statistics are now in. The graphs can be drawn, and the charts can be drawn, and the picture is not very pretty if you fell into that category which most Americans did.

The Congressional Budget Office projects that after this year the real after-tax income—that is what you have in your pocket, after taxes, what you can spend on your family, on their health, on their food, on their shelter, and on their education—the Congressional Budget Office tells us that real after-tax income of the top 1 percent of the families in America more than doubled between 1980 and 1992. They did very well.

In contrast, however, the real after-tax income of this typical American family, a family with two children, wife and husband, both having to work, fell by something like \$747 per family. Their real spending income actually was less in 1991 than it was in 1980. Is there any wonder why the majority of the families in this country say, hey, something happened in the 1980's, and it was not good for me, and it was not good for the majority of Americans in this country?

Another interesting statistic which affects real people in a very real way points out that the total Federal tax rate, or burden on all middle-income families that have children will be higher in 1992 than in 1980, while that same burden or rate of taxes that is paid by the top 1 percent of the families in America will be actually 7.5 percent lower in 1991 than it was in 1980.

Yes, something did happen in the decade of the 1980's, and if you were in the top 1 percent of Americans, what happened was very good, and you are a lot better off than you were at the start of the last decade.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BREAUX. I would ask for another 5, if that is appropriate.

Mr. BENTSEN. How much time does this Senator have?

The PRESIDING OFFICER. The Senator from Texas has 19 minutes.

Mr. BREAUX. I am sorry. Can I have just 2 minutes to conclude?

Mr. BENTSEN. Yes; the Senator can have 3 minutes.

Mr. BREAUX. I thank the Senator.

What we have seen, Mr. President, is a problem out there that needs attention and that this Congress has that ability to correct. We have heard a number of the political candidates say

that the middle-income tax break this bill provides is not real and it does not mean anything and it is not going to turn the economy around.

It may be true that it is not going to jump start the economy by giving a \$300 tax credit to a middle-income family, but let us not kid anybody. If you are a middle-income family in America making \$35,000 a year and have two children, you are in difficult financial straits, and this bill, if it is adopted and signed into law, would give that family, that is, a median-income family in America, a 25-percent tax reduction.

Now, we have seen people say, well, a dollar a day is meaningless, and people do not want it. Let me tell you if you are a family making \$35,000 a year and you are sitting around your kitchen table filling out your tax forms and you look at what this bill would do for you, I think you would consider very significant a \$300 tax credit per child. For 2 children it is \$600.

A median-income family pays \$2,400 in taxes. If you give that family a \$600 tax credit, that means when it files its return it deducts \$600 off what it has to send to Washington. If you are that family sitting around the kitchen table trying to figure out how are you going to pay your taxes next year, and somebody tells you under this bill you would have the opportunity to reduce your tax burden by a full 25 percent, do not tell that family it is not real. Do not tell them that it is not significant. They can use that tax credit for dental care for a child, for a physical examination, for a medical examination and treatment for those children, or it can help with the cost of baby food for a year. These are real things to real people who are in the middle-income tax bracket.

For the top 1 percent it may not mean anything. They may be able to make fun of it. But I tell you, of all the people in the State of Louisiana who fall into that category, this bill and this provision is significant, it is real, and it is substantially helpful to their economic plight. It addresses the question of tax fairness which this Congress has not addressed in the decade of the 1980's.

I think it is a step in the right direction. I will have more to say about other aspects of this bill which I think are important, particularly in the real estate and housing sections as well as capital gains, which I think are a step in the right direction.

With that, Mr. President I yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we really have a choice tonight to decide in which debate we want to engage. One

debate tries to divide Americans along the lines of how much money they earn. It tries to create the politics of the class struggle in America. That class struggle and its politics failed in Eastern Europe, in the Soviet Union, and is being rejected all over the world, but I guess some of our colleagues believe it is still working in Havana, Cuba, and they can make it work in Washington, DC.

The tragedy of it is that no nation has ever engaged in any kind of redistribution of wealth without destroying more wealth than they redistribute.

Mr. President, debate about redistributing the wealth is what our Democratic colleagues are doing here tonight. In fact, their bill raises taxes, imposing taxes on people who are paying more of the tax burden today than they were in 1980, and in the process, transfer 83 cents a day to people with the idea that somehow that is going to have a positive economic impact on America.

Mr. President, I do not think that is the case, but the point is it is irrelevant to the problem that America faces today. Our problem is that we are in a recession, that Americans are out of work, and this debate should not be about redistributing the limited amount of wealth we have but about creating new wealth, new jobs, new growth, new opportunity.

Mr. President, with the amendment before us we have a clear-cut choice. We have the Packwood amendment that is basically seven incentives aimed at creating jobs, generating growth. Their sole objective is to try to put America back to work:

First, it cuts the capital gains tax rate to encourage people to invest. I know our colleagues on the left here say cutting capital gains tax rates help the rich. Well, the last time I looked everybody that is rich that I know either has a job or they do not want to work. What the President and I are trying to do is to encourage people to invest in America, to create jobs here for people who do not have jobs, that is what this amendment does.

We have a provision that recognizes that people ought to have the right to offset losses in real estate against gains when they are principally in the real estate business so as to encourage investment in the area of our economy that is weakest. We have an investment tax allowance that targets incentive to encourage people to invest in building new farms, new factories, to generate new economic growth.

I would go through the list from the homebuyer tax credit to the institution of using IRA's to buy new homes, and every one of these provisions boils down to one thing, jobs. Compare that with the underlying bill—a hodgepodge of bad ideas, from imposing a tax on every coal producer in America to bail out a private pension fund, where most

of the people paying the taxes would get no benefit from the pension fund, to an endless list of special-interest provisions all tied to this basic idea of the economics and politics of the class struggle.

So, Mr. President, our choice tonight is very clear. If you want to create wealth, generate jobs, get America moving, jump start the economy, you want to vote for the Packwood amendment. If you want to play politics as usual, poison the President's tax proposal, guarantee that we adopt a bill that will be vetoed, and that will in the process guarantee that there will be no jump-start program, then you want to vote no. I think the choice is about as clear as a choice can be.

I hope my colleagues will put partisanship aside and will vote for this amendment. I think it is important to the future of the country. I think the American people want more jobs, more growth, more opportunity. We have a chance in this amendment to create those jobs. If this amendment fails, we have a bill that will destroy jobs and not create them.

I yield the floor.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wish to commend Senator PACKWOOD for his leadership in preparing this substitute.

Like many pieces of legislation that we see having been part of it, contributing to it, but not the total author of it, I find it good but not perfect. If I had my way, I would make a few changes in it. But, nonetheless, overall, I think it is an excellent piece of work. I must say, Mr. President, it is certainly a tremendous improvement over the bill that is before us.

Why is it a big improvement? I think the key thing that I find troubling in the bill that is before us, the bill we are working on, is that the bill increases taxes \$57 billion. But what it does with that \$57 billion is it takes \$32 billion and spends it immediately in an area that all the proponents concede has nothing to do with job stimulation or economic revival in the United States of America. They start off conceding that point.

Suddenly, they talk about fairness, equity, a whole series of other terms that somehow they are attempting to achieve. But if we are going to deal with equity, then let us get into the whole Tax Code and start right down at the bottom, work our way right through the code.

But to spend \$32 billion over 5 years of new taxes on a very limited credit—first of all, let us remember this credit only is for those families that have children. And it is for only those children who are up to 16 years of age. In other words, they have to be 15 or less.

It also income-wise is limited. It starts about in the \$20,000 bracket of

the family and works its way up to \$50,000 family income, and then it is phased out.

What do we get for spending that \$32 billion? Each family that has a child gets, per child—in this limited group, for this limited age period—83 cents a day. Come on.

I am as sensitive—I have five children—as anyone to the cost of raising children. But to suggest that by giving a family 83 cents a day per child we are doing something for either the family or the economy, and on the other side of the equation, we are spending \$32 billion. I think families across America would say, "I want to do something for my children. And what I am going to do, and what I hope for, is to have the \$32 billion go to reduce the deficit so that these children will not be lugging that burden in future years"—burden that accounts for \$300 billion out of the budget every single year without a nickel of it going to principal.

So I am not opposed to raising taxes. Some on our side are. But if we are going to raise taxes, then let us have that revenue—certainly the great bulk can go to the reduction of the deficit.

Now in the bill that we have before us is the substitute by Senator PACKWOOD, and it deals with two areas that I believe are of prime importance: first, jobs; second, stimulation of the real estate industry.

In connection with the real estate industry, we revised the passive loss rules. We have a \$5,000 tax credit for home purchases. We permit the use of IRA funds by first-time home buyers.

I have talked a good deal with homebuilders and realtors in my State. Every one of them believes that this will help. Is it going to solve everything? Of course not. But it is going to be a definite help.

The other part, jobs part, you heard touched on already. You have heard that the reduction in the capital gains will stimulate jobs. The portion that I particularly want to address, Mr. President, is the relief of that extremely onerous luxury tax. If there ever was a case where we embarked on something that was a sheer disaster from the start, it was the imposition of the so-called luxury tax.

What it is is a tax. It has nothing to do with luxury. It started out somehow we were going to tax the rich.

So the case I am particularly involved with, where I come from a State that builds more sailboat hulls than any State in the Nation, in our small State, with only a little over 1,000 square miles, we build more sailboat hulls than any State in the Nation.

So this so-called luxury tax that was to hit the millionaires and imposed a 10-percent tax on every boat that cost over \$100,000—did it hurt the millionaires? No. What is devastating to those low-income individuals—and they are skilled, and they are not in the mil-

lionaire bracket by a long shot; those who build these boats—is that they lost their jobs because these boats just plain were not selling.

So it is a perfect case of where you raise the tax, you go through the barrier and impose a tax—in this case the so-called luxury tax—and you collect no money from it. So it has been a loser in every respect.

So, Mr. President, again, I urge my colleagues to support the Packwood substitute. I believe that, at a relatively modest cost, it is going to do the things we are seeking in this legislation. It will stimulate the economy. It will provide jobs. It will not, I will say, work wonders for the real estate industry, but it will certainly work as a tremendous encouragement to the real estate industry. I think it is a good bill.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum, and ask that it be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I yield to the minority leader such time as he may need.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I am pleased to join with my colleagues, Senators PACKWOOD, DOMENICI, and others in proposing the Republican substitute Finance Committee tax increase plan.

It has been pointed out that our plan is very simple. It is a progrowth package that features much needed tax incentives for "working and earning America" to get the economy moving again and it does it without busting the budget agreement, without jacking up the deficit, and without raising taxes.

It includes the seven original provisions of the President's Economic Growth Acceleration Act, plus one very important addition—the repeal of the so-called luxury tax, the Democrats' misguided experiment in soaking the rich that really drowned the middle-class American workers.

Our alternative also includes legitimate ways to pay for these important growth incentives.

Four of these seven original incentives are designed to help spark the sluggish real estate market, and help bring the dream of homeownership within the reach of more Americans.

These incentives start with a real \$5,000 tax credit for all first-time home buyers, whether they are buying a new or existing home. The Bentsen Plan re-

stricts the homebuyer credit to purchases of brand new homes, shutting out more than 80 percent of first-time buyers who purchase existing homes, and shutting out inner cities and rural communities that are not experiencing much new home construction.

The Republican alternative also gives first-time homebuyers a helping hand by permitting penalty free IRA withdrawals for the purchase of a home. We propose to further stimulate the real estate market by allowing real estate investment by pension funds, and passive loss relief.

Mr. President, it is time to stop playing Capitol games with capital gains. We should reduce the capital gains tax rate, and we should do it right, as the President has proposed. The American people are demanding more jobs, and this is the kind of employment-building growth incentive America needs. And as President Bush observed in his State of the Union Message, 60 percent of the people who will benefit from the lower rate have incomes under \$50,000.

To further stimulate business investment, we propose an investment tax allowance to help businesses purchase new equipment. Approval of this measure would be welcome news on every assembly line in America, where hard-working Americans are building the equipment that can help dig, plow, build, and drive our Nation out of the recession.

The seventh incentive is a permanent simplification of the alternative minimum tax depreciation rules, a measure certain to curb administrative costs—and headaches—for many taxpayers.

Again, these are the seven provisions in President Bush's original growth package. To the big seven, we have added a crucial eighth provision—we propose to rescue American jobs from the Democrats' so-called luxury tax. Let us face it, aircraft manufacturers, boatbuilders, small town jewelers, and automobile dealers have had all the luxury they can take. If you ask the workers on the assembly lines at Beech, Cessna, or Learjet in my home State of Kansas, they will tell you they consider their jobs necessities, not luxuries. When the Democrats dreamed up the luxury tax, they aimed at the high fliers, and ended up hitting the little guy, forcing folks off the assembly lines and on to the unemployment lines. I do not think that is the kind of fairness they had in mind. It is high time we fixed this class warfare casualty.

Mr. President, while the opponents of our bill are certain to argue otherwise, this bill does pay for itself with legitimate funding provisions. Let me also add that while our alternative does not include reform for the Pension Benefit Guarantee Corporation, I think we all agree that reforms are needed to get the PBGC back on its feet. Because both sides cannot come to agreement

on the scoring of these reforms, we will have to address it responsibly at a later date—hopefully along the lines of the administration's comprehensive reform proposal.

We also do not include a middle-class tax cut in this measure. If you ask the American people, they will tell you that priority No. 1 is boosting the economy and putting people back to work, without increasing the deficit. They do not want a few quarters a day from Uncle Sam—they want a paycheck from an employer. But, I am confident that we will have the opportunity to look at so-called middle-class tax relief—after we approve these essential growth incentives.

Mr. President, it is time for Congress to get out of the business of creating excuses, and get into the business of creating jobs.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum, and ask that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield 8 minutes to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I rise in support of the amendment being currently debated. The situation that we face here today has already been so very accurately described by our colleagues, Senator HOLLINGS of South Carolina, and Senator HEFLIN of Alabama. We are debating a bill which, because it contains tax increases, will be vetoed if it does pass, and that veto will be sustained.

I commend my colleagues who have come down onto the floor and have urged the Senate to pass at least some provisions of a bipartisan agreement.

It should be clear to everyone here that the public has grown very weary indeed of congressional bickering and sniping over tax policy.

It is truly, I think, a galling situation for most Americans, and for most of us. Americans are calling out for us to provide meaningful progrowth, job-creating legislation. They are making that clear in their remarks, and through their votes. Few would disagree that this year has been exceptional in the public's low level of tolerance for giveaways and other very empty political gestures.

We ought to be able to respond. We ought to, because there is a substantial common ground on which Republicans and Democrats agree. The seven points contained in the President's proposal reflect many of those areas of agreement.

There is a broad basis of support in this body, Mr. President, and throughout the Nation, for expanding IRA's to allow their use for first time home purchases. There is substantial support, too, for the first time home buyers' \$5,000 tax credit.

Other elements of this plan are similarly noncontroversial. Alternative minimum tax relief is not a front-page issue, but it is an important one. I commend those who have worked for this and similar provisions—the President for including it among his seven points, and the Finance Committee chairman for advancing this cause in his bill.

Passive losses for real estate, too, is something on which many of us agree. The real estate market, so vital to the economic recovery—and always has been—has been uniquely hit by tax laws which prevent tax deductions for the losses they absorb.

Even the capital gains tax relief and the investment tax allowance contained in this amendment ought not to be a subject of significant controversy. They were included, in a diluted form, in the underlying bill.

So, it might be asked, what is the difference? Why is there a point of contention in picking between the two?

There is a very major difference. These provisions are accompanied, in this underlying bill, by a \$57 billion tax hike, and a \$31 billion tax credit giveaway which, while crafted to be very popular with the voters, according to the latest polls, will do absolutely nothing to create jobs or to promote growth.

We should be able to give that sort of tax relief, and to stimulate the economy too. And that is what it all comes down to. This is a chance to enact some measures which receive some form of bipartisan support, and to really enact them. We already know that tax increases are not going to become law this year. We can do this at least; we can at least pass this amendment. Then we can do something else that everyone seems to want. Democrats had proposed a \$300 tax credit for children. We can enact an increased personal exemption, paid for by defense cuts that we also agree on. We could pass the measure before us to promote growth, and we could also give middle-class tax relief, without undoing the good by simultaneously raising taxes.

I hope that we can. No one—on either side—is going to feel good and proud if all we have done this year is pass a tax increase and secure a veto. What a feckless exercise.

We can, however, do something positive and relatively noncontroversial for the economy by passing this amendment. It is a start.

But we all know exactly what we have to do, and we all know that there is great glee in seeing if the Republicans can blow up the Democrats and

the Democrats can roll the bombs over to the White House and blow up the President, hoping he will get into a box the whole rest of the year on every veto known to the creative mind of a legislator. Do one here, shovel it down there, shovel it back here. And the Republicans will do their work over here, in our hardy band of 43, trying to get some semblance of sense, and a sense of bipartisanship.

We all know exactly what we have to do. There is no guesswork, no tricks, just the fact that it is a highly charged partisan year, and this is but exhibit B of 52 exhibits that will arrive at the President's desk between now and November.

So hopefully we can adopt this amendment. I certainly urge it. I think it is sensible, and it gives us a start.

I yield the floor.

Mr. MITCHELL. Mr. President, will the distinguished manager yield to me?

Mr. BREAUX. I yield whatever time the majority leader needs.

Mr. MITCHELL. How much time is left, Mr. President?

The PRESIDING OFFICER. Fifteen minutes 45 seconds remains.

Mr. MITCHELL. Mr. President, I want to, if I might, address some of the points that have been made by supporters of the amendment.

I have been intrigued in recent days by the argument that if one agrees with the President, then one is a patriotic American, acting in behalf of the country's interest, and acting in a non-partisan manner; but that if one disagrees with the President, then one is not a patriotic American, is not acting in the country's interest, and is acting in a partisan manner.

I submit, Mr. President, that is a standard appropriate for monarchy; it is not a standard appropriate in a democracy.

I have never heard of a standard in a democratic society which suggests that disagreement with a policy of a President means that one is acting against the country's best interest. I reject the standard. It is the antithesis of democracy. It suggests that the President's policies are the only policies that are in the national interest and that any disagreement with those policies represents an action contrary to the national interest. It elevates the President from a President to the functional equivalent of a monarchy.

The argument has been made that the only way that we can prove that we are not partisan is to accept the President's proposal, lock, stock, and barrel, every number, every comma, every semicolon, every word, and that to disagree with the President is partisanship, but to agree with the President is acting in the national interest.

I believe that some of the suggestions made by the President are sensible. I believe that some of the proposals made by the President should be adopted.

I also believe that some of the proposals made by persons other than the President are sensible. I also believe that some of the proposals made by persons other than the President should be adopted.

I think it is neither proof of partisanship nor lack of partisanship to have a legitimate debate on the substance of the issues on the various provisions. So far, what we hear continuously is that we are out to destroy jobs if we do not agree with the President, that we are acting against the country's interest if we do not agree with the President.

So I believe, Mr. President, at the outset, we should make clear that a person can be a patriotic American, a person can believe he or she is acting in the best interest of the country, and a person can be acting in a manner that is not partisan, a person can be all of those things and disagree with the President.

So let us come to the merits of the issue. What are the differences between the substitute and the committee-reported bill? According to the Congressional Budget Office, whose accounting controls in the Senate, the substitute amendment will increase the Federal budget deficit by nearly \$24 billion over the next 5 years. If there is one thing we have had in this Senate it is speeches about the Federal budget deficit, how bad it is, how it ought not to be increased. And many of those speeches have come from our Republican colleagues. And, yet, here they are proposing an amendment which will increase the Federal budget deficit by \$24 billion. Under the congressional Budget Office scoring, which controls in the Senate, therefore, Mr. President, any Senator who votes for this amendment votes to increase the deficit by \$24 billion.

A second point of difference. The reason the committee bill does not increase the deficit even though it accepts each of the seven proposals made by the President, in modified form with respect to several of them, is that it proposes to pay for them by increasing tax rates on the wealthiest seven-tenths of 1 percent of Americans. Over and over again, the figure has been used, not here this evening, but by others in the administration, that the Democratic bill will increase taxes for everyone making more than \$35,000. That is untrue. There never was and is not any basis for making that statement. It is a complete fiction.

The committee bill before us applies only to persons whose taxable income is, for single persons, \$150,000 a year or higher, married couples filing a joint return, \$175,000 a year or higher in taxable income. Those compute, in terms of total income, to approximately a minimum of \$200,000 a year, the top, the wealthiest, the best off seven-tenths of 1 percent of Americans. It is to protect the wealthiest seven-tenths

of 1 percent of Americans that our colleagues are prepared to oppose this legislation and the President is prepared to veto it. The President represents all of the people, and yet the President is prepared to veto the bill to protect less than 1 percent of Americans, the very wealthiest, less than 1 percent of Americans at the expense of the other 99 percent, many of whom would receive a reduction in taxes under the committee bill.

Now, it is not that our colleagues are opposed to a tax cut for middle-income Americans. The President said he was for it in his State of the Union Address. In response to some criticism by Mr. Buchanan, he has reaffirmed his support for a middle-income tax cut, and I understand our colleagues will at some point during the discussion of this bill offer a version of middle-income tax cut. The question is not whether you are for or against a middle-income tax cut. The President is for it. We are told at least one Republican Senator will offer it. It is in the committee substitute.

The question then becomes what method should be used for finance the middle-income tax cut. The Democratic bill does so by the same increase in taxes on the top seven-tenths of 1 percent of Americans, the very wealthiest seven-tenths of 1 percent of Americans. The Republican colleagues propose to pay for it out of the so-called peace dividend.

Mr. President, I think every Member of the Senate saw the article in the New York Times last week which documented in a most dramatic fashion what we all know to have occurred in the past decade and that is the increased polarization of our society by income and wealth and how the wealthiest 1 percent of Americans received by far the largest benefit in the 1980's.

Mr. President, I ask unanimous consent that the article to which I referred, which I now hold in my hand, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, according to this article—and I am just now reading from the heading from 1977 to 1989—pretax income of the rich grew sharply and the rich reaped most of the after-tax gains, too. The richest 1 percent of families received 60 percent of the after-tax income gain.

Then the article documents the fact that as one moves down the income scale, the income in after-tax status grew decreasingly according to income. I think that we all ought to be concerned about fairness in our society. Each of us ought to be concerned about a situation in which our society is becoming polarized by income and wealth in a way that has never been the American experience.

So the legislation that has been reported by the committee achieves what we are told are the benefits of the seven growth incentives, pays for them without increasing the Federal budget deficit, and does so in a way that will restore some fairness to the Tax Code.

So a vote for the pending amendment is, first, a vote to increase the budget deficit by \$24 billion. A vote for the pending amendment is, second, a vote to continue the unfair tax policies of the past decade, which have produced the situation which I have just described.

A vote for the pending amendment, in my judgment, is a partisan vote, is a vote that is not consistent with the best interests of the country, is a vote that is not consistent with fairness.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes.

Mr. MITCHELL. Mr. President, I just want to reemphasize what I said earlier, that I believe that the committee bill, the bill drafted under Senator BENTSEN's able leadership, best represents what is needed to get the economy moving again, best represents what is needed to attempt to provide more fairness in our tax system, and best represents what I believe will secure the kind of sustained long-term growth that we want in our society and that all of us share.

I do not think anybody here would propose an amendment that they thought would destroy jobs. I think it is most unfortunate that some of our colleagues have characterized the bill as doing that. I do not think anybody here would propose an amendment they thought would harm the country. I think every Senator wants to do what is right for the country. There are different views on how to do that.

I hope very much that the Senate will reject the amendment. I hope very much that the Senate will then go on, after debating the disposing of whatever amendments remain, to support the Senate Finance Committee bill, because I think it is the right thing to do. And I recognize the validity of arguments to the contrary. I do not question the patriotism or the motives or the intent of anyone who disagrees and offers an alternative.

I want to make that very clear. Unlike some of the arguments made against us, I do not think a person is less an American because he agrees or disagrees with the President. I do not think a person is less devoted to the country because he agrees or disagrees with the President. I do not think a person is less sincere in trying to do what is right for the country because he happens to agree or disagree with the President or agree or disagree on each of the alternatives.

The essence of democracy is open, vigorous, meaningful debate out of

which we believe will come those policies best suited for the Nation. It has worked over a long period of time in our country and I expect that it will continue to work in our country.

I think it is particularly important that the American people understand who is affected by this bill. Many statements have been made. The President has made many statements referring to this as a huge tax increase, an unacceptable tax increase, a tax increase on persons with incomes above \$35,000, and many other characterizations. And, of course, there is not any way that any of us can compete with the President for the attention of the American people.

To the extent that we are able to have our views heard, to the extent that there are listeners and viewers, every American should know that the tax increase in this bill affects only those persons who are in the top seven-tenths of 1 percent, by income, of Americans; 99.3 percent of Americans will be unaffected by the rate increase in this bill. Generally, that means persons whose taxable income is, for a single person, \$150,000 a year or higher; for a married couple filing jointly \$175,000 a year or higher. In terms of total income, that is approximately, for all concerned, incomes in excess of \$200,000 a year.

Under those circumstances, I do not think that many Americans would agree that this is an unacceptable increase or that it is a huge increase or that it is an unfair increase; 99.3 percent of Americans will not be affected by this increase. Indeed, many of the 99.3 percent would see their taxes reduced by the reduction that is contained in the bill.

Now on that point, I want to make one additional argument. Much has been made of the relative size of the middle-income tax cut, and the amount of the reduction has been divided by the number of days, maybe by some of the number of hours, and reduced to an amount of less than a dollar, 97 cents, 24 cents, some other figure. That is one way of looking at it.

But, Mr. President and Members of the Senate, the reality is that for an American family of four with income at the media, \$35,000 a year for a family of four, husband, wife, and two children—the median income of course means that half the American families have incomes higher than that, half of the American families have incomes lower than that—for that family of four with annual income of \$35,000, the Senate Democratic bill would provide a 25-percent reduction in income taxes. A 25-percent cut is a significant cut.

#### EXHIBIT 1

[From the New York Times, Mar. 5, 1992]  
EVEN AMONG THE WELL-OFF, THE RICHEST  
GET RICHER

(By Sylvia Nasar)

Populist politicians, economists and ordinary citizens have long suspected that the

rich have been getting richer. What is making people sit up now is recent evidence that the richest 1 percent of American families appears to have reaped most of the gains from the prosperity of the last decade and a half.

An outsized 60 percent of the growth in after-tax income of all American families between 1977 and 1989—and an even heftier three-fourths of the gain in pretax income—went to the wealthiest 660,000 families, each of which had an annual income of at least \$310,000 a year, for a household of four.

While total income for all 66 million American families expanded by about \$740 billion in inflation-adjusted dollars during the Carter-Reagan years, the slice belonging to the top 1 percent grew to 13 percent of all family income, up from 9 percent.

#### BIG JUMP IN INCOME

The average pretax income of families in the top percent swelled to \$560,000 from \$315,000 for a 77 percent gain in a dozen years, again in constant dollars. At the same time, the typical American family—smack in the middle, or at the median, of the income distribution—saw its income edge up only 4 percent, to \$36,000. And the bottom 40 percent of families had actual declines in income.

"We know that productivity has increased since 1977 and that more people are working," said Paul Krugman, an economist at the Massachusetts Institute of Technology and the author of "The Age of Diminished Expectations," a book that is critical of Reaganomics. "Where did all that extra income go? The answer is that it all went to the very top."

#### FINE-SIFTING THE DATA

The data were compiled by the Congressional Budget Office, the research arm of Congress, which uses the estimates to project tax revenues; the figures were released in final form in December. The census data that most economists use track incomes by broad categories, like the top 20 percent, called the top quintile. The C.B.O. data, by building on figures from tax returns, let analysts focus on narrow income strata with microscopic precision.

"If changes are going on at the top, you don't pick it up in the census data," said Robert Reischauer, director of the Congressional Budget Office.

The broad pattern disclosed by the latest data is not in dispute, but the reasons for the shift are. Potential explanations range from the trend toward lower taxes on the wealthy to an explosion of executive pay to higher returns on capital.

It was not until economists started to analyze the figures that it became clear what a large share of the income gains in recent years was accounted for by the very rich. "The number that no one had seen was how much of the growth went to a few people," said Mr. Krugman, who focused on the numbers in testimony before Congress several weeks ago.

That finding is already supplying fresh ammunition for those eager to reverse the upward tilt in income distribution or searching for new ways to raise Government revenue.

The tax bills wending their way through Congress include an increase in the top tax rate and a surtax on millionaires. And the Democratic Party is honing "fairness" as an issue it can run with.

As it happens, the trend seems to have begun 30 years ago and parallels shifts in other rich countries, including Germany and Britain.

"It's been going on since the 1960's," said Robert Avery, an economist at Cornell Uni-

versity who conducted two Federal Reserve surveys of the wealthy in the 1980's. "It shows up in many different sets of data. And it's consistent with different explanations healthy and unhealthy."

In fact, a growing tilt toward the top has characterized other periods in American history. Economic historians say that industrial America through the 1800's and early 1900's experienced a growing concentration of riches at the top. But that was partly reversed by the Depression and World War II.

"We have a couple of periods when we've seen especially rapid changes," said Claudia Goldin, an economic historian at Harvard University.

The latest data on income distribution do not provide any easy explanation of the trend. One explanation given by some tax experts is that the rich are simply reporting more of their income and taking advantage of fewer loopholes, now that tax rates have been trimmed substantially. The top tax rate on personal income was cut to 31 percent during the Reagan tenure from more than 90 percent during the Kennedy years.

"The reason is that suddenly you can keep most of the money you report," said Lawrence Lindsay, a Federal Reserve governor who has written a book, "The Growth Experiment," that defended the supply-side tax cuts of the Reagan era.

#### THE ADVANTAGES OF TIMING

Most economists find the explanation plausible. Unlike steelworkers or secretaries, business owners and executives often have a lot of discretion over the timing and form of their income. They can decide when, say, to sell a business or whether to take their compensation in a paycheck or a bunch of stock options.

"Inequality has increased back to where it was before the New Deal," Mr. Krugman said. "But maybe the New Deal only drove the rich underground."

Still, few economists are convinced that the reporting factors are the only explanation.

For one thing, wage and salary income for the top 1 percent of families exploded between 1977 and 1989. At least two studies have shown that the rich—wealthy wives, in particular—actually worked more after taxes were cut. More important, the pay of chief executives rocketed during the 1980's. By the end of the decade, according to Graef Crystal, a compensation consultant, the bosses were making 120 times as much as the average worker, compared with about 35 times as much as the mid-1970's.

Before these new data showed how much of the gains really went to the very top, economists knew of the growing inequality and explained some of it by pointing to the rise in low-earner couples and the faster wage growth of highly educated workers, especially ones with computer skills. But the surge in pay at the top is just too large to be explained solely by working wives and M.B.A. degrees.

Another theory is that inhibitions against pay inequality crumbled during the Reagan 80's, a period in which unions were put down and getting rich through enterprise was seen as heroic.

The families at the top of the top quintile include lawyers married to other lawyers and a sprinkling of rock and baseball stars. But the majority probably own closely held businesses or manage Fortune 500 companies. Another thing that makes these families different from the merely well heeled, said Joel Slemrod, a tax economist at the University of Michigan, is that they get about half their

income from their wealth-capital gains, dividends and interest. And income from assets owned by the wealthy, like real estate, stocks and bonds, also surged in the 1980's.

For most of the 1980's at least, interest rates were high, the stock market appreciated some 16 percent a year and the price of real estate on the East and West Coasts soared. The value of small-business assets also grew, Mr. Avery said. "The argument that the rise in top incomes was partly driven by entrepreneurial income is fairly persuasive," he said.

In fact, there is new evidence that net worth—assets minus debt—at the very top also grew disproportionately. The Federal Reserve has yet to release data with breakdowns, but a recent Fed study suggests that that was the case.

While some view the greater concentration of income at the top as a problem, many economists do not agree. "The probability that you're looking at the same people at the start or end of a decade is very small," Mr. Lindsay said. "If the top 1 percent is getting richer, it means that there was a lot of upward mobility in America during this period."

Mr. Lindsay cites tax data that show that of the families in the top 1 percent at the beginning of a decade, fewer than half are in the top 1 percent 10 years later. From year to year, he said, between a quarter and a third of families move from one broad income group, like the top 20 percent, to another.

Keep in mind, moreover, that 1989, the last year for which Congressional Budget Office numbers are available, represented the peak of the 1980's financial boom. The early 1990's have already clipped the wings of a lot of high-fliers as corporations have shed executives, law firms have down-sized, businesses have failed and real estate values have collapsed.

But it is easy to exaggerate fluidity at the very top, some economists say. For one thing, the rich may get knocked off their perches from time to time, but the fall for most is not usually all that far. Then too, an income drop is as likely as not to reflect a decision to take a one-time loss than it is a permanent change in the ability to generate income.

Besides, said Frank Sammartino, an economist at the C.B.O.: "People complain that the income distribution is just a snapshot of one year. But after all, taxes get paid on one year's income."

#### THE TAX FACTOR

Although families in the top 1 percent paid slightly less than 27 percent of their income in taxes in 1989, compared with more than 35 percent in 1977, their payments amounted to a somewhat bigger share of the total Federal tax bill than in 1977. The reason, of course, is because their incomes grew so much.

With incomes that total near half a trillion dollars—about the same amount, coincidentally, as total Federal tax revenues—the top 1 percent of American families have a lot of financial heft.

"If you're talking about the income tax bubble or capital gains, it's not the top 5 percent or the top 10 percent, but the top 1 percent," Mr. Avery said. "If they're taxed at 100 percent, everybody else can be taxed at zero," he added jokingly.

The data are going to keep economists busy for years and should pay fat dividends for Americans' understanding of how the freewheeling United States economy really works. But, for the present, the numbers are bound to provide yet another battleground for politicians arguing over which tax policy

will produce the best combination of growth and "fairness."

The PRESIDING OFFICER (Mr. AKAKA). The Senator's time has expired.

Mr. MITCHELL. Mr. President, I would like to use some of my leader time.

The PRESIDING OFFICER. The leader may use his leader time.

Mr. MITCHELL. Mr. President, on behalf of the committee, I modify the committee substitute with the changes I now send to the desk.

The PRESIDING OFFICER. The committee substitute is so modified.

The modification is as follows:

Page 641, line 14 strike "50,000" insert "40,000".

Page 642, line 1 strike "50,000" insert "40,000".

Page 642, line 2 strike "20,000" insert "10,000".

Page 927, after line 22, insert as flush language:

"Of the aggregate deduction allowable under this paragraph 50 percent shall be allowed for the taxable year in which the property is placed in service, and 50 percent shall be allowed for the succeeding taxable year."

Mr. MITCHELL. Mr. President, I thank my colleagues and I now yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield 1 minute to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 1 minute.

Mr. BURNS. Thank you, Mr. President. I thank the ranking member of the Finance Committee.

I think I hear echoes of 1990 again. I voted against that agreement in 1990. I used old common sense. I think I was right.

As I live every day I know I am more right when we start talking about passing higher taxes in any form. I guess that is bragging a little bit to this body and to this country, but as Dizzy Dean says, "If you done it, it ain't braggin'."

We know what rough times are in Montana. We went through our times in the early eighties. I am an auctioneer, and I do not know how many people of this group know and understand what it is like to go out and sell out a friend when you are in rough times.

This is the wrong time for any kind of a tax increase. This is a time when the Government should pull in its horns and get mean and lean just as we are asking of industries and business.

I want to express my opposition to this bill as reported by the Senate Finance Committee.

Let there be no mistake—I have long supported the need to provide tax relief to the working people of this country.

I support giving them back some of their hard earned money because I have always opposed taking it away from them in the first place.

I am proud to state that I voted against the so-called budget deal of 1990 because it raised taxes to the tune of \$142.1 billion. I said at the time that "raising taxes in a weakening economy is a recipe for disaster, and I will not vote to bring that disaster on the American people."

In 1990, it was "we have to raise taxes to reduce the deficit." Well, that deficit that was supposed to disappear by 1994 will be over \$350 billion this fiscal year so that obviously did not work.

In 1992, it is "we have to raise taxes to cut taxes." Again, I have no argument with the need to cut taxes to stimulate a weak economy. But why do we have to raise taxes to do it.

I have to quote something I read recently in a Heritage Foundation memorandum because I think it describes this approach perfectly. It says that the bill before us "simply raises taxes on Peter to pay Paul. Unfortunately, one result of taxing Peter in a recession is that he is likely to respond by giving Paul a pink slip."

I know that there are many in this body who still deny the connection between taxing those that can afford to invest and employ and the current state of our economy. If they cannot accept that fact in theory, then I urge them to look at the facts surrounding the so-called luxury tax.

As a part of the 1990 budget deal, a 10-percent surtax was imposed on those items that only the rich can afford—items like boats, airplanes, jewelry, and furs. The watchdogs of tax fairness thought this was the perfect way to stick it to the rich.

Why, then, you ask are we repealing the luxury tax in this bill? Well, it caused job loss. The rich it turned out are not so rich that they can afford to pay a 10-percent surtax so they did not buy new boats and airplanes. Now, it is hard to have sympathy for some rich guy who could not buy a new boat last year, but it is not hard to have sympathy for the estimated 19,000 middle-income workers in the boat industry who were put out of work as a result.

The House Ways and Means Committee report accompanying their version of this bill admits that the surtax was a mistake—that raising taxes on Peter to pay Paul resulted in Peter handing Paul a pink slip.

They say "in the context of current general economic hardship, it is appropriate to remove even this small burden in the interests of fostering economic recovery."

I think that example illustrates why this is a bad bill. Any good that will be done by the provisions that cut taxes will be undone by the tax increases.

That is why I support passing a package that keeps the tax cuts intact, but pays for them with spending cuts.

We can argue about the specific economic growth provisions in this bill—should we cut the capital gains tax to 23 percent or 15 percent? Should we offer families a \$300 tax credit per child or \$500 credit?—and we will argue about them during the course of this debate.

But for me, those changes are marginal compared to the fundamental change this package needs. And that is to replace the tax increases with spending restraint.

Senator KASTEN has a proposal which I am cosponsoring that takes the tax cuts included in this bill and pays for them with spending restraint.

By doing this we are able to provide tax relief to American families and investment incentives to American investors without adding to the deficit and without raising taxes.

The Kasten-Burns package freezes domestic and international discretionary spending at fiscal year 1993 levels and uses the defense savings over the next 5 years to pay for economic growth.

By taking this approach, we are giving the American people a waste dividend and a peace dividend.

Federal spending is out of control, growing at a rate that far outpaces inflation or any other realistic measure of growth. The Federal Government is too big and its imposing presence is a burden on this economy. There is no question that there is waste that can be cut for the sake of the economy and the American people.

A 4-year spending freeze will bring Federal spending back in line and may even help impose the kind of fiscal discipline needed to get the deficit under control. Washington needs to learn that everyone else has tightened their belt and it is time to tighten ours. That is fairness, Mr. President, if the American people are suffering, we should be too.

The Kasten-Burns package includes another fundamental change. It makes sure that the peace dividend goes back to the people who paid for peace—the American taxpayer.

I hope that for once common sense will prevail in this Chamber and we will reject tax increases and replace them with spending restraint.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Oregon has 10 seconds.

Mr. PACKWOOD. Ten seconds? I yield to the Senator from New Mexico. Mr. DOMENICI. How about 2 minutes of leader time?

Mr. DOLE. I yield 2 minutes of leader time.

Mr. DOMENICI. The Republican leader has given me 2 minutes of his leader time.

Mr. President, you know many people say one of the most thoughtful and wise men that America ever had in a leadership position was Abraham Lincoln. I am just thinking tonight how applicable the statement he made many, many years ago is to tonight. Let me read it quickly.

You cannot strengthen the weak by weakening the strong. You cannot help small men by tearing down big men. You cannot help the poor by destroying the rich. You cannot lift the wage earner by pulling down the wage payer. And you cannot keep out of trouble by spending more than your income. And you cannot further the brotherhood of man by eliciting class hatred. You cannot establish security on borrowed money.

Frankly, Mr. President, it seems to me I do not have to say anything other than that. I would suggest, indeed, when I spoke of having a point of order against the underlying bill I was right. We made a mistake, however. We should have asked for the yeas and nays and their bill would be dead unless they had 60 votes to waive the point of order. But they put a little modification in and fixed it.

Having said that, the other point is why should our bill fall on a scoring issue when we have all agreed that the scorer, for real effectiveness to carry out anything, is OMB?

The Democrats and Republicans agreed if you are going to carry out a budget and put sequester enforcement, OMB scoring controls. OMB says capital gains in the outyears is going to raise revenues.

Another group says it is going to lose revenues. Our bill will fall tonight, probably, because OMB will not be believed. We think in this case it is credible. It is controversial, but we ought to have a chance to have an up-or-down vote, simple majority vote on what is, indeed, the President's amendment—the President's bill.

The PRESIDING OFFICER. The Senator's time has expired. There are 10 seconds remaining to the Senator from Oregon.

Mr. PACKWOOD. I will be happy to yield back my 10 seconds.

Mr. SYMMS. Mr. President, I rise in support of this Republican substitute amendment that will provide some real economic relief to the American people. It is unfortunate for the American people that the fate of this amendment has been decided even before the debate has begun.

The Democrats continue to believe that increases in spending must be ac-

companied by huge tax increases. My friends from the other side of the aisle continue to forget that Congress has an alternative financing method—cut spending.

It seems contrary to my logic, Mr. President, to have an economic growth package that includes enormous tax increases. As a cosponsor of this amendment, I wish my Democratic colleagues at the very least would look at our alternative.

It wasn't so long ago when we would pull together as a Nation during tough economic times. When the President could call the chairmen of the tax-writing committees, they'd agree to work together, and a few weeks later we'd be back on the road to recovery.

It wasn't so long ago when the tax-writing committees could put aside their partisanship for a few moments and do what everybody knew to be good for the country. How far we have fallen.

The chairman of the Ways and Means Committee summed up his tax package in one word: fairness. There are many words I might use to describe what was done in the House, but fairness wouldn't be one of them. Shortsighted comes to mind. Irresponsible would also fit better.

Much of this bill has revolved around the question of fairness—ensuring that high-income taxpayers pay their fair share. Democrats consistently point toward income distribution tables that show how the rich keep getting richer and the middle class keep getting poorer. But what they fail to tell you is just how much the so-called rich pay in taxes. The top 20 percent of all American wage earners will pay over 70 percent of the total Federal taxes under current law. Just how much more do these people need to bear in order for the system to be fair?

I'm sorry to say that the bill that we have before the Senate today is better than what was in the House, but it's nowhere near enough. If we have to play soak-the-rich games when things are going well, at least we should call timeout when the economy needs some help. I'd have thought we had learned our lesson with 1990's favorite soak-the-rich taxes—the luxury taxes. It is ironic that the tax bill before us today repeals most of the luxury taxes that were enacted last year but attempts to find another way to soak the rich by creating a fourth tax bracket at 36 percent and imposes a 10-percent surtax on millionaires. Will we never learn?

Usually, when the Democrats talk about raising taxes on the rich it is in conjunction with a capital gains tax cut. After all, according to the Democrats most of the benefits from a capital gains tax cut are received by the so-called rich. However, in this bill those individuals in the top tax brackets don't even get any capital gains relief. In fact, they are left virtually the

same. It seems once again we are going to soak the rich but this time they don't even get anything in return.

Partisan fights are natural, they're important, they're part of what we do in the Senate. But when it comes down to getting the job done, I would have hoped the Finance Committee and the Senate could find a way to put the public bickering aside and to get the job done on a bipartisan basis. However, it looks like we won't be able to do that and unfortunately it is the American people who are going to be the big losers.

The Democrats do not want a real tax bill that will give the American people what they deserve—some relief and economic stimulus. They want a veto and by including an additional tax bracket of 36 percent and a 10 percent surtax on millionaires the Democrats were assured of getting just what they wanted.

Although there is no budget point of order against this bill, I want to make it clear that it is not because the bill does not raise the deficit because it does. This year alone the bill increases the deficit by at least \$2 billion. No budget points of order will be against this bill because it was cleverly and purposefully reported as two bills.

We keep hearing that this bill includes seven of the President's economic growth proposals. The Democrats would like us to believe they have included the President's proposals but the provisions in this tax bill are not the same as the President's. The capital gains provision is not the same as the President's. It simply does not provide any capital gains relief. The capital gains provision that is in this bill will not generate the economic growth that is needed to stimulate the economy.

This is not the President's investment tax allowance, not the same first-time home buyers' credit, not the same passive loss provisions nor is it the same extension of the R&E tax credits.

This bill does not do much for encouraging investment. The investment tax allowance under this bill is only 10 percent and would only run through the end of the year. The President's proposal was twice as long and 5 percent greater. By the time this bill gets passed there will hardly be enough time to use the provision under this bill. While the President's tax R&E extenders were permanent, the Finance Committee's R&E provision only lasts through next year. The first-time home buyer credit provides benefits to less than 20 percent of first-time home buyers because the credit is limited to newly constructed homes.

Although my friends from the other side of the aisle may want us to believe this is a bipartisan effort to stimulate economic growth, let's stop kidding ourselves. This bill does not represent bipartisanship nor does it actually include the President's seven proposals.

So let's finish this charade as quickly as possible, so that those who have led us to this sad moment can score their cheap political points, and so that we can regroup in a few weeks, on a bipartisan basis, and let's get the job done right so America can get back to work.

Mr. DURENBERGER. Mr. President, I reluctantly rise to speak in opposition to the amendment offered by my distinguished Republican leader, Senator DOLE.

It is not often that I stand on this floor to oppose a major initiative of my leader, especially when it comes at the request of the President. But I feel compelled tonight to express my reasons for opposing this amendment which incorporates the President's seven tax cut proposals.

Although I believe the President and Members on both sides of the aisle sincerely want to do something to help our citizens through these troubled economic times, the proposals that are before us today—the Finance Committee bill and the President's bill fall far short of the vision that can fundamentally alter the direction of the economy.

Mr. President, recently a woman in Minnesota wrote me a note about what her friends are feeling and saying about the economy and politics. She writes:

No one believes George Bush when he tells them the economy is improving. My friends and family aren't seeing it \*\*\* and they ask, who is it improving for? \*\*\* the rich? It isn't improving for some of my friends, neighbors, or some family members \*\*\* my son-in-law hasn't been able to find work since he was laid off early last fall.

As she notes "This is tough on someone with three kids to support and on the brink of losing their house."

My daughter is babysitting 16 hours a day, to help bring in some extra income. This week my husband was offered two jobs at \$5.00 an hour. He will need to work two full-time jobs in order to make enough to support a family. This is a man that was making \$14 an hour in past jobs.

She goes on to write:

Friends (young and old alike) are fed up with federal and state governments, and they are convinced that the President and other elected officials do not have any idea what it is like for the middle income folks. They work hard, but they keep falling behind and are expected to pay more to assist the elderly, homeless, other less fortunate, increased utilities and other increased costs especially health insurance.

Mr. President, this is just a snapshot of what is happening in America today. Americans are scared about their future and they know that middle-income tax cuts or first-time home buyer tax credits are not the answer to our Nation's economic problems.

Americans know that we cannot sustain a \$400 billion year deficit, or a \$4 trillion national debt. They know that what both parties are engaging in is election year politics. We in this body owe it to the American people to stop this tax cut charade now and develop a

bipartisan consensus for reviving the competitiveness of the American economy after the election.

Mr. President, we can talk in abstractions about fairness. We can weigh the pros and cons of giving a family an additional 82 cents a day for each of their children and about how that will help this economy.

But what I want to talk about is how we are being strangled by a \$400 billion a year deficit. How, if you add in all the interest that is credited to the trust fund surpluses, debt service for this year alone accounts for more than \$316 billion—more money than we ever spent on defense in a single year during the height of the 1980's military build-up.

Mr. President, in less than 5 weeks, Americans will be sitting down with their calculators to figure out how much personal income tax they owe for 1991. When all is said and done, the American people—low income, middle income, and upper income—are expected to pay the Federal Government nearly \$480 billion in individual income taxes and \$520 billion in the next fiscal year.

Most people assume that their income taxes are paying for the military, education, health care, and assorted other Federal services. But the reality is that if you add up all the interest that will be paid to private and foreign investors in the next fiscal year, \$215 billion, and add in the interest that will be credited to trust fund accounts, \$101 billion, for every dollar of individual income taxes the Federal Government collects, 61 cents will be used for servicing the national debt and the current debt.

Even if you ignore the interest credited to the trust funds, and only consider the \$215 billion in interest that will be paid to private investors, the fact remains that 41 cents of every dollar of individual income taxes goes to pay interest to private investors. In other words, every single income tax dollar collected in the first 149 days of this year, January 1 to May 28, will be transferred to private investors who own Treasury debt. And we stand here talking of tax cuts?

Mr. President, before anyone casts a vote on the pending amendment, let them answer the question: "Will this proposal revive confidence in the economy?" Is there anyone in this body who thinks we should spend \$5 to \$6 billion to give first-time home buyers and incentive to buy a first home? Not a permanent credit, but a credit that is available only for buying a home before the end of this year.

This is just short termism at a time when we must be thinking of the long term. In fact, from what I have heard in Minnesota, since this proposal was floated, many potential first-time home buyers have put off their purchases until they find out whether this proposal becomes law.

In other words, with interest rates low, and with housing prices low, many people are thinking of buying homes. But they are waiting to see whether we are going to give them a \$5,000 bribe to make a purchase they have already decided on.

Another proposal in this package would provide a special investment tax allowance for companies that purchase new equipment before the end of this year. Again, this is just a short-term fix. It will do little to enhance our international competitiveness. Companies that may be considering long-term investments—constructing brand new modern facilities that won't be fully operational for 2 or 3 years will not be able to take advantage of this proposal because of the placed-in-service rules. Do we want to penalize companies looking to the long-term and merely reward quick short-term investments in a machine or another personal computer?

Mr. President, there is another fundamental problem with this amendment. It will increase the deficit, despite the fact that its proponents claim it is paid for.

We in Washington have developed a set of so-called budget deficit scorekeeping rules that even Albert Einstein would have a hard time figuring out. I never attempt to explain these rules to my constituents in Minnesota because they would never understand how a reduction in the growth of a program from 11 to 8 percent is a cut in spending.

But if we examine this proposal, we will see that using administration scoring, the growth incentives lose more than \$3 billion in 1992 and are allegedly budget neutral over 5 years. However, using CBO scoring, this bill will increase the deficit by more than \$17 billion over 5 years.

Mr. President, somewhere between 5-year revenue neutrality and \$17 billion in increased deficits lies the truth. And this Senator is convinced that while the Treasury's estimates are too optimistic, CBO is too pessimistic. And that leads me to conclude that this proposal will surely increase the deficit. And I do not believe it will help the economy in any meaningful way.

Mr. President, future generations will one day ask: "How could you have increased the national debt by \$2.4 billion in a decade? What did you get for all that deficit spending?" Mr. President, I cannot answer that question in a way that can justify continuing this binge of deficit financed spending.

Mr. President, I must in good conscience vote against waiving the Budget Act.

The PRESIDING OFFICER. All time on the Senator's amendment has expired.

The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I raise a point of order to the pending Packwood

amendment on the ground that it violates section 311(a) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I move under section 904 of the Budget Act we waive section 311 of that act for the purpose of considering amendment 1709.

The PRESIDING OFFICER. Under the previous agreement, there will be 20 minutes of debate on the motion to waive.

Who yields time?

Mr. SASSER. Mr. President, will the distinguished chairman yield me 10 minutes?

The PRESIDING OFFICER. The Senator from Texas?

Mr. BENTSEN. Of the time under the control of the manager of the bill, I yield such time as I have to the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding to me.

I will try to justify as succinctly as possible to my colleagues the thrust of the point of order which I just raised against the Packwood amendment.

The payment source for the amendment offered by the minority side rests once again on the dubious proposition that broke the bank in the 1980's. The notion that a tax cut for the wealthy means more money and tax revenue. When in the world are we ever going to learn? This is the same old sloganeering we heard in 1981, the same old vacuous supply-side economics that have put this country into the fiscal cage in which it finds itself today.

I do not propose to get into a debate about the methodology of scoring the capital gains tax cut that the minority would seek to use as a subterfuge to pay for their amendment. We have had that debate. We have had it many times through very bitter years, and we are not going to resolve it here.

I will say, however, that the experience of recent history, the experience of the 1980's militates strongly and convincingly against the supply-side proposition. Commonsense militates against it. The most reliable economists dismiss it outright.

In this body, we rely on the scoring and the analysis of the Congressional Budget Office and of the Joint Committee on Taxation. They are both non-partisan. I will tell you quite frankly that I am not always pleased with what comes out of the Congressional Budget Office. The director of that office knows that, but it is a nonpartisan operation, as is the Joint Committee on Taxation.

In fact, the distinguished ranking member of the Senate Budget Committee, for whom I have the greatest respect, recently praised the Congress-

sional Budget Office for its evenhandedness and its dispassionate approach.

The bottom line of the Joint Tax Committee and the Congressional Budget Office analyses is that the alternative offered by Senator PACKWOOD tonight, on behalf of the Republican minority, simply does not pay for itself. In fact, it will add at least \$20 billion to the Federal budget deficit over the next 5 years, all in the name of giving another tax cut to the wealthiest in this country.

Everyone knows this is the case. The President knows it is the case. His budget for fiscal year 1993 did not even rely on the flimsy argument that a capital gains tax cut is a revenue gainer. The President and his men have abandoned that transparent argument because it simply will not hold water. It will not stand up to the light of day. No reputable economist agrees with him. So instead the minority has relied on a complex and illusory set of savings built around a new accounting treatment, so-called accrual accounting.

The nonpartisan Congressional Budget Office ripped the veil off that particular sham and disclosed it for what it is.

I was heartened to see that my colleagues on the other side of the aisle have also seen through that gimmick. Instead, they have resorted to an amalgam of mandatory cuts to pay for their package. But even these cuts are based on the weakest of foundations: OMB partisan, and I might say, skewed scoring of capital gains. Without the illusory savings from the capital gains proposal, the cuts would not be nearly large enough to pay for this package, and we all know it.

Time and again our colleagues on the other side of the aisle have risen on the floor of this Chamber to warn of an impending sequester and to denounce larger budget deficits. To come before us now and propose a bill that would add to the deficit by some \$17 billion flies directly in the face of the admonitions I heard from our friends over the last 10 years.

The truth, Mr. President, is that by any serious measure, the package that the distinguished chairman of the Finance Committee brings to this body today pays for itself. He bit the bullet. He made the decision in his committee that the tax bill that he brought to this body would conform with the Budget Enforcement Act and all of its requirements and it would be a pay-as-you-go package. No more increases in the deficit; no more free lunches on tax cuts.

Let us contrast what occurred on the other side of the aisle. Rather than propose real offsets, our friends across the way have resorted to the path of least resistance. Just wave the magic wand and presto change, the tax cut becomes a revenue increase and you do

not have to pay for it. It sounds like 1981 all over again. Or as our old friend Yogi Berra would say, it is *deja vu* all over again.

I ask my colleagues why do we have to retreat to a strategy that is discredited, a strategy that is doomed, one that has put this country on the verge of bankruptcy, one that has made this country the largest debtor country on the face of the Earth? Why have our friends on the other side of the aisle ignored the myriad of additional proposals in the President's budget that could be used to offset the true cost of their amendment?

Mr. President, I think the answer is fairly clear. They simply will not support a plan that is truly paid for, as is the plan of the distinguished chairman of the Finance Committee. An honest plan would contain real offset that clearly assign the burden of paying for its benefits. The chairman's program does so by requiring upper income taxpayers to pay their fair share. The Bentsen bill meets the test; it pays for itself.

The package that is offered as an alternative fails that minimum standard, but with a wink and a nod it asks us to accept favorable scorekeeping in order to minimize the need for a real payment source.

At this late hour, Mr. President, we simply cannot support that kind of thought, so I applaud the approach taken this evening by the distinguished chairman of the Senate Finance Committee. He did it the hard way, but he did it the honest way. He went to the members of his committee and told them if we are going to give a middle-income tax cut, middle-income tax relief to millions of Americans, if we are going to correct the inequities in the Tax Code that now exist, we are going to have to pay for it. He told them he was going to propose an additional tax on the very wealthiest in the country with full knowledge that this would be an unpopular and a controversial role to play. But that was leadership and the distinguished chairman of the Senate Finance Committee displayed leadership and produced a package that stands on its own—without resorting to gimmicks.

I cannot say the same for the alternative that is offered this evening from the other side of the aisle.

So, Mr. President, for that reason I have raised the point of order.

Mr. DOMENICI. Did the Senator yield the floor?

Mr. SASSER. I yield to the distinguished chairman of the Finance Committee.

Mr. BENTSEN. How much time is left, Mr. President?

The PRESIDING OFFICER. All time for the majority has expired.

Mr. DOMENICI. Mr. President, would the Senator like a minute or two of mine?

Mr. BENTSEN. I would be delighted to have a minute.

Mr. DOMENICI. I yield the Senator 2 minutes. I can say mine and make sure everybody understands it in 8 minutes.

Mr. BENTSEN. Mr. President, that is very gracious particularly since the point I want to make is that when we are talking about relying on OMB, I could not help but think that our bill, if you relied on OMB numbers, would show us cutting the deficit by approximately \$25 billion.

I could not help but think, when we were talking about the 36-percent tax rate, how President Reagan came down and wanted a 35-percent tax rate for those making \$70,000. The vast majority of those people we have left at 28 percent. I was thinking of the Senator's points about small business entrepreneurs in the 36-percent bracket.

What the administration has done is most misleading. Roughly two-thirds of those affected by the new fourth bracket are small business. What they did is include all taxpayers who reported income from sole proprietorships, S corporations, farms, and partnerships. The last two categories contain many taxpayers with net business losses, including many tax shelters. So I do not believe that is a representative statement. The way the administration put the numbers together I think brings about a situation which is not representative.

I thank the Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 8 minutes.

Mr. DOMENICI. Mr. President, I think it is rather deplorable, since I heard some on the other side speak of deplorable things coming from our side, that somebody would speak of a sham with reference to the Dole-Packwood amendment and its scoring. Let me just take a moment to talk about a sham.

The bill, the underlying bill, is \$3.5 billion in the red. It will cause a sequester of \$3.5 billion. That is the proof of the pudding. If you breach the deficit and you do not pay as you go, you cut certain mandatory programs to make up for it. So for those who want to vote against our amendment, to put it in proper perspective, I must talk about their amendment a little bit. I hope everyone understands, when they vote for the Democratic amendment, they are voting to cut Medicare \$3.1 billion across the board, and that is this fall. They are also voting to cut farm programs and social services block grants, across the board.

I am not suggesting that there are not some who would like to do all those things, but I am quite sure that nobody is touting that bill for the sham that it is with reference to its deficit neutrality, and it is very simple where the sham comes—\$3.5 billion has

already been used once to pay for the unemployment compensation bill. It is used again for this bill. And so OMB raises the deficit by that amount. Very simple.

So I do not believe we ought to say one bill is a sham; the other is not. We ought to talk about scorekeeping with reference to what we did or what we did not do.

First of all, the majority and the minority signed an agreement and put in law a provision that says the executive branch of Government will score programs, score revenues, score entitlements for the pay-as-you-go and for deficits, not CBO and not the Joint Tax Committee.

So we have an interesting dilemma going. Tonight we are being told to score the Republican bill according to the Joint Tax Committee, score it that way, even though we have agreed that for purposes of sequester, OMB governs. I say to the Senate tonight, if they want to be fair, they ought to say the point of order does not lie, because it is more appropriate to use OMB scoring than CBO's or the Joint Tax Committee, because the final word is, in fact, OMB's. And they say, they and Treasury say, that the capital gains tax does not, over the 5 years, cause the expenditures and the reduction in taxes that the Joint Tax Committee says. That is a very easy proposition. Which do you want to believe, when in fact what is going to govern at the end of the year is OMB's numbers. That is it, plain and simple.

Now, Mr. President, let me talk about the point of order against the Democratic bill, because they are very lucky. There is a point of order against that bill because it is \$1.8 billion by CBO's estimates high on the deficit side, but this point of order only requires a 50-vote waiver. You do not make points of order when a simple majority governs. Why? We might as well vote up or down on the amendment instead of a point of order.

But in fact, that particular breach of the budget was, until the budget agreement of a year and a half ago, a 60-vote point of order, and a mistake was made. When we transcribed all the information in that 5-year agreement, this 60-vote was left out, and therefore it is only subject to a 50-vote waiver vote. Absent this error, the Democratic amendment would also be subject to the same point of order, 60-vote requirement.

Now, you add all that up, and there is plenty of room to talk about sham on both sides or on neither side. I submit we just ought to have an up-or-down vote opportunity on a bill that is the President's request. Now, you do not have to do that, I say to my friends on the other side, but I repeat, in my closing remarks here, you at least ought to give him a vote when you waited for month after month after month and be-

sieged that man: Where is your economic development plan? It came so many items on the floor that I used to come down here and ask, "When do we get new charts that criticize the President for not getting the country moving?"

We offer the President's plan and a point of order is made so he cannot even get an up-or-down vote, when, in fact, it meets OMB's test and it does what many think we can do without significantly raising taxes on the people of this country.

So that is my argument. I cannot do any better. I just urge some Democrats on that side to let us have a vote; let us have a vote. Do not get rid of the President's package on a point of order when you begged him to come up with one for very long and then you threw it away. Do not throw it away like the House did. It has a few provisions that look like his and kind of smell like them even, though they are not nearly as effective. They threw it all away in the House, for all intents and purposes.

So I urge that you join us, some of you on the other side. Let us waive this Budget Act so we can have a vote.

If I have any remaining time, I yield it back, assuming they have no additional time. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I yield whatever time I have.

Mr. KASTEN. Mr. President, I am voting against the motion to waive the Budget Act to consider the administration's seven-point plan. I initially supported the package, but as details have slowly filtered out of the Treasury Department and OMB I have grown more and more skeptical. These proposals do not represent the bold pro-growth leadership that our economy needs to once again begin creating jobs.

The administration's capital gains tax cut is less of a capital gains tax cut than advertised. By adding back the 45-percent capital gains exclusion for the alternative minimum tax, it imposes a top capital gains tax of 24 percent for some taxpayers—not the 15.4 percent we've been led to believe. Watered-down capital gains approaches are like prescribing aspirin for a brain tumor, they won't cure the recession.

With so many Members of Congress agreeing that a cut in the capital gains tax is the right thing to do, we ought to do it the right way. We ought to do it in a way that will get our small business sector really moving again. The Kasten-Mack proposal lowers the capital gains rate to 15 percent for everyone, individuals and corporations, and indexes for inflation. Indexing is vital to protect the elderly, farmers, small businessmen, and middle-class investors from the unfair taxation on inflationary gains.

Just as I am disappointed with the capital gains provision in the package,

I am also disappointed it has no increase in the personal exemption for children. Although this was proposed by the President, it is not in this package. This type of profamily tax relief is vital to any economic recovery package. I am also disappointed with the 2-year phase-in of the first time home-buyer credit. The full credit should be available in the first year.

In short, I am looking for a more comprehensive and aggressive package that will put this economy out of recession and restore a vigorous level of economic growth and job creation.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Indiana [Mr. HARKIN], the Senator from Hawaii [Mr. INOUE], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I further announce that, if presenting and voting the Senator from Michigan [Mr. RIEGLE] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 37, nays 60, as follows:

[Rollcall Vote No. 39 Leg.]

#### YEAS—37

Bond	Grassley	Roth
Brown	Hatch	Seymour
Burns	Hatfield	Shelby
Chafee	Helms	Simpson
Cochran	Lott	Smith
Craig	Lugar	Specter
D'Amato	Mack	Stevens
Danforth	McCain	Symms
Dole	McConnell	Thurmond
Domenici	Murkowski	Wallop
Garn	Nickles	Warner
Gorton	Packwood	
Gramm	Pressler	

#### NAYS—60

Adams	Dodd	Levin
Akaka	Durenberger	Lieberman
Baucus	Exon	Metzenbaum
Bentsen	Ford	Mikulski
Biden	Fowler	Mitchell
Bingaman	Glenn	Moynihan
Boren	Gore	Nunn
Bradley	Graham	Pell
Breaux	Heflin	Pryor
Bryan	Hollings	Reid
Bumpers	Jeffords	Robb
Burdick	Johnston	Rockefeller
Byrd	Kassebaum	Rudman
Coats	Kasten	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Simon
Daschle	Kohl	Wellstone
DeConcini	Lautenberg	Wirth
Dixon	Leahy	Wofford

#### NOT VOTING—3

Harkin	Inouye	Riegle
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The PRESIDING OFFICER. On this vote the yeas are 37; the nays are 60.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Chair is prepared to rule on the point of order.

The adoption and enactment into law of the pending Packwood amendment would cause revenues to be less than the appropriate level of total revenues set forth in the concurrent resolution on the budget by \$400 million in fiscal year 1992 and by \$24.4 billion for the period of fiscal years 1992 through 1996. Therefore, the point of order is sustained, and the amendment fails.

#### SCHEDULE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. I have discussed with the distinguished Republican leader a few moments ago the schedule, and I want to repeat what I have said previously on several occasions prior to and during consideration of this bill.

It is my hope and intention that the Senate will complete action on this bill this week. Therefore, the Senate will remain in session for as long as it is necessary to do that.

I was specifically asked what would occur if we completed action on the bill by late tomorrow evening. My response was and is that under the previous order final disposition of this bill would be followed immediately by a cloture vote on the conference report on the crime bill, and that thereafter it is my intention that there not be a session on Friday if we complete action on this bill prior to then.

So that it is my expectation that we will be in session late tomorrow. I hope we can finish the bill, have the cloture vote to which I have just referred, and then not be in session on Friday. If we are unable to do so, if disposition of the amendments to be offered carries us beyond that, then we will return Friday and stay in session on that day for as long as it takes to accomplish that objective.

I hope that the number of amendments will be kept to a minimum. I along with the chairman have encouraged Democratic Senators not to offer amendments, or those who feel that they must agree to reasonable time limitations, so that we can complete action on the bill if possible tomorrow evening, if not, sometime on Friday and, if necessary, Friday evening and beyond if that is what it takes to complete action of the bill.

I thank my colleagues, Mr. President.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, is the bill open to further amendment?

The PRESIDING OFFICER. The committee substitute as amended is before the Senate.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. MITCHELL. Mr. President, prior to the vote I discussed with the Republican leader a procedure for proceeding and what we hoped to do was to alter Senators back and forth for either side's amendment.

Mr. HELMS. That is fine.

Mr. MITCHELL. We had first an amendment offered by a Democratic Senator and then by a Republican.

Mr. HELMS. I understand.

Mr. MITCHELL. We hoped to get an agreement that Senator LEVIN will offer an amendment at 10 a.m. tomorrow, and Senator DOLE said he would be ready with a Republican amendment thereafter. We have no agreement yet. But the bill is open to amendment. It would be appreciated if we could proceed in that manner.

Mr. HELMS. Absolutely. I understand. I thank the leader.

The PRESIDING OFFICER. The majority leader is recognized.

#### MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BREAKING THE DEFENSE CAP

Mr. DOMENICI. Mr. President, there is a bill around that started on that side. It was introduced by the distinguished chairman of the Budget Committee, Senator SASSER. It would take the defense cap wall down, break it for 1993, rip it down and have nothing in its place. It has about 47 or 48 signatures. All but one are Democrats.

I, today, circulated a letter. It has 35 signatures on it. I will put it in the RECORD tonight so everyone will see it. Thirty-five Senators said if that bill passes and goes to the President of the United States, we will sustain a veto and we urge the President to veto it. So I hope, if we are bent on doing something constructive, we will work on that issue. If we are bent on creating an issue, we have one. Obviously, that will not become law. I can assure you the President is waiting anxiously to veto it.

I send the letter to the desk and ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
COMMITTEE ON THE BUDGET,  
Washington, DC, March 9, 1992.

The PRESIDENT,  
The White House, Washington, DC.

DEAR MR. PRESIDENT: Debate over developing the 1993 budget blueprint for our country's economic future is well underway. As that debate proceeds, we want you to know of our deep commitment to helping formulate sound and lasting economic growth policies.

In developing this economic blueprint for the future, however, we must also remain vigilant of our country's long-term national security. In that regard, we the undersigned are strongly opposed to recent proposed legislation in the Senate (S. 2250) and House (H.R. 3732) that would remove the wall between defense and domestic discretionary spending.

One of the hallmarks of the 1990 Budget Enforcement Act was multi-year budgeting. The Act set multi-year spending caps for defense and domestic discretionary programs. It allowed for better long-term defense planning. We are not prepared to subject our national security needs to further uncertainties by removing the spending walls. To do so we believe would weaken fiscal discipline, threaten deep and dangerous cuts in defense spending, and destroy the Act's multi-year budget focus.

Should such legislation reach your desk, we the undersigned will support your veto of such legislation. We must maintain the discipline of the 1990 Act.

Sincerely,

Pete V. Domenici, Warren B. Rudman, Connie Mack, Thad Cochran, Phil Gramm, Slade Gorton, Malcolm Wallop, John Warner, Strom Thurmond, Steve Symms, Larry E. Craig, Conrad Burns, Ted Stevens, John Danforth, Alfonse D'Amato, Bob Smith, Jesse Helms, Kit Bond.

Mitch McConnell, John McCain, Larry Pressler, Alan Simpson, John H. Chafee, Hank Brown, John Seymour, Trent Lott, Dave Durenberger, Don Nickles, Frank H. Murkowski, Nancy Kassebaum, Bob Dole, Jake Garn, Richard G. Lugar, Orrin G. Hatch, Dan Coats.

#### VETERANS HEALTH CARE AMENDMENTS ACT OF 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2344, the Veterans Health Care Amendments Act of 1992, introduced earlier today by Senators CRANSTON, SPECTER, DECONCINI, ROCKEFELLER, DASCHLE, and AKAKA.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2344) to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighted to urge

Senate approval of S. 2344, the proposed Veterans Health Care Amendments Act of 1992, legislation that I, joined by the committee's ranking Republican member, Mr. SPECTER, and committee members DECONCINI, ROCKEFELLER, GRAMM, AKAKA, and DASCHLE, introduced today. The committee reported substantively similar legislation in S. 869 on July 25, 1991, and passed the provisions of S. 869 with a committee modification, as a substitute amendment to H.R. 2280, on November 20, 1991. Due to objections raised over House amendments to H.R. 2280 as passed on November 25, 1991, the Senate did not act on H.R. 2280 at the close of the first session of the 102d Congress and a subsequent impasse has blocked final action on H.R. 2280 this session.

Mr. President, the measure before us today is substantively identical to S. 869 as amended by the Senate on November 20, 1991, and passed that day in H.R. 2280—with minor technical modifications to reflect the lapse of time since last November and, first, a modification of the marriage and family counseling provisions so as to change the funding provision in light of the fact that funding has been appropriated for fiscal year 1992; second, the deletion of a provision requiring retroactive payment of special pay for certain VA physicians and dentists; third, the deletion of a provision regarding minority issues, in light of the enactment of a similar provision in Public Law 102-218; fourth, the deletion—now considered unnecessary—of a provision that would have perfected the provision enacted in the fiscal year 1992 VA, HUD, and Independent Agencies Appropriations Act, Public Law 102-139, that removed, until June 30, 1992, the price VA pays for drugs from the best-price calculation under section 4401 of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990; and fifth, in order to expedite Senate action on this bill, the deletion of extensions of provisions relating to vocational rehabilitation and training that expired January 31, 1992, and involved direct spending.

Mr. President, this legislation originally derived from S. 127—which Senator MITCHELL introduced on my behalf on January 14, 1991, and which contained several provisions substantively identical to health care provisions in S. 2100 as reported by our committee in the 101st Congress (S. Rept. No. 101-379)—from S. 869, legislation I introduced with Senators DECONCINI, ROCKEFELLER, and AKAKA on April 18, 1991, to address the tremendous problem of post-traumatic stress disorder [PTSD] among wartime veterans, and from S. 1553, legislation I introduced on July 24, 1991, and the Senate passed on November 15, 1991, to establish a program of marriage and family counseling for certain Persian Gulf war veterans and their families.

The bill addresses a wide range of subjects related to veterans' health and

mental health care, including: Improvements in veterans' access to VA treatment services for PTSD related to combat-theater service; eligibility for pre-Vietnam-era combat-theater veterans to receive services at vet centers; improvements in VA's planning and overall approach to meet the needs of veterans with PTSD; establishment of mental illness research, education, and clinical centers; marriage and family counseling for Persian Gulf war veterans; enhancement of VA's authority to provide prosthetic appliances and certain other medical items in certain situations; increases in the maximum payments for certain home health services; expanded services for homeless veterans; extension of VA's pilot program of mobile health care clinics; establishment of an advisory committee on prosthetics and special disabilities programs; access to procreative services; increased emphasis on preventive medicine; providing assistive animals for certain disabled veterans; entitlement of former prisoners of war for outpatient medical services; enhanced child-care services for VA employees; and improvements in VA efforts to provide benefits and services to minority veterans.

Mr. President, because the various provisions in the bill are described in detail in the committee's report on S. 869, Senate Report No. 102-118, I will at this time just set forth a summary of the provisions and discuss certain provisions that I want to highlight. I refer my colleagues and all others with an interest in this bill to the committee report on S. 869.

#### SUMMARY OF PROVISIONS

Mr. President, the bill has four titles: Mental Health, General Health Care, Minority Affairs, and Miscellaneous, as follows:

#### TITLE I—MENTAL HEALTH

##### PART A—POST-TRAUMATIC STRESS DISORDER

Part A of title I contains freestanding provisions and amendments to title 38 that would:

First, make a series of congressional findings related to the incidence of PTSD among veterans and the need for VA to improve its efforts to address the unmet need among veterans for PTSD treatment.

Second, require that (a) a veteran whom a mental health professional designated by VA's Chief Medical Director (CMD) has diagnosed as suffering from PTSD related to combat-area service and whose service in a theater of combat operations is verified by provided care for the disorder as though it had been adjudicated to be service connected; and (b) whenever a veteran is referred by a Vet Center to a general VA health-care facility for a determination regarding eligibility for care and services under this new entitlement for health-care services for PTSD, the veteran be evaluated for diagnostic purposes within 7 days after the date on which the referral is made.

Third, provide to veterans who served in a theater of combat operations during World War II or the Korean conflict with entitlement for counseling to assist with over-

coming any psychological problems associated with such service.

Fourth, require that, not later than July 1, 1992, the Secretary of Veterans Affairs devise and initiate implementation of a plan to (a) increase, to levels commensurate with the needs of veterans suffering from PTSD related to active duty, PTSD treatment provided in specialized inpatient and outpatient treatment programs, including PTSD/substance abuse programs, and in Vet Centers; and (b) enhance outreach to inform combat veterans and their families and State and local health and social service organizations of the availability of such treatment and appropriately encourage veterans to participate in treatment.

Fifth, require that, not later than 90 days after the date of enactment, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the PTSD plan, including (a) a description of the plan; (b) what facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach activities in accordance with the plan in a manner that does not reduce the existing capacity of the Department to provide treatment for other conditions; (c) a description of VA's efforts to make such resources available; (d) an estimate of the availability of community-based residential treatment for PTSD and the impact of such availability on the increased availability of such treatment by VA; (e) an assessment of the need for, and potential benefit of, providing scholarships or other educational assistance to improve the training of individuals providing PTSD treatment providers; (f) recommendations to improve the availability of PTSD treatment; (g) a description of the efforts by the Secretary to implement the recommendations of the CMD's Special Committee on PTSD with respect to (1) establishing educational programming directed to each of the various levels of education, training, and experience of mental health professionals involved in the treatment of veterans suffering from PTSD, and (2) giving research relating to PTSD a high priority in the allocation of funds available to VA for research related to mental health; and (h) any other proposals and recommendations that the Secretary considers appropriate to increase the availability of PTSD treatment.

Sixth, require VA's Special Committee on PTSD to submit by January 1, 1993, an evaluation of the National Vietnam Veterans Readjustment Study and an assessment of veterans with PTSD, as estimated in that study.

Seventh, extend for 2 years the reporting requirements of the VA CMD's Special Committee on PTSD and require the Committee's reports to be submitted concurrently to VA and the Congressional Committees on Veterans' Affairs.

Eighth, require VA to specify in its fiscal year 1994 and fiscal year 1995 budget documents the type and amount of resources that are proposed to be spent in the coming fiscal year on PTSD-related activities.

Ninth, require the Secretary, to the extent practicable, to ensure that there are VA PTSD treatment units in locations that are readily accessible to veterans residing in rural areas.

#### PART B—MENTAL ILLNESS RESEARCH AND EDUCATION

Part B of title I contains an amendment to title 38 that would:

First, require the Secretary to designate not more than five VA health-care facilities as the locations for centers of mental illness research, education, and clinical activities

(MIRECCs), with at least one to be designated by January 1, 1993.

Second, authorize the appropriation of \$3.125 million for fiscal year 1993 and \$6.25 million for each of fiscal years 1994, 1995 and 1996 for MIRECCs.

#### PART C—PROGRAM OF MARRIAGE AND FAMILY COUNSELING FOR CERTAIN VETERANS

Part C of title I contains freestanding provisions that would:

First, require VA, subject to the availability of specifically appropriated funds, to conduct a program to furnish marriage and family counseling services to (a) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses, children, and parents of such veterans, and (b) veterans who are or were members of reserve components who were called to active-duty service during the Persian Gulf War and the spouses, parents, and children of such veterans.

Second, authorize appropriations of \$10 million for each of fiscal years 1993 and 1994 to carry out the program of marriage and family counseling.

Third, require the Secretary to submit (a) by April 1, 1993, an interim report regarding the Department's conduct of the program and (b) by January 1, 1994, a final report on the program, including an evaluation of the program and recommendations the Secretary considers appropriate.

#### TITLE II—GENERAL HEALTH CARE

##### PART A—GENERAL HEALTH

Part A of title II contains freestanding provisions and amendments to title 38 that would:

First, authorize VA to provide prosthetic appliances to certain veterans with non-service-connected disabilities if the provision of such appliances would obviate the need for hospitalization.

Second, increase (a) from \$2,500 to \$5,000 the maximum amount of a one-time home-improvement and structural-alteration grant as part of home health services furnished in connection with the treatment of a service-connected disability, and (b) from \$600 to \$1,200 the maximum for such grants in connection with the treatment of a non-service-connected disability.

Third, require each VA medical center (VAMC) or regional benefits office (VARO), in consultation with all VA facilities serving veterans in the appropriate service area and with existing community-based organizations that have experience in working with homeless persons, to make an assessment with respect to the needs of homeless veterans living within that facility's catchment area and to identify the needs of homeless veterans in the areas of health care, education, training, employment, shelter, counseling, and outreach services and the extent to which these needs are being met by VA programs, other government programs, and private programs.

Fourth, require each VAMC, in conjunction with the appropriate VARO and Director of Veterans Employment and Training within the State concerned, to develop, with 90 days after enactment, an annual plan for each of fiscal years 1993, 1994, and 1995 for outreach and the provision of comprehensive services to homeless veterans in that VAMC/VARO catchment area and, in developing such a plan, to attempt to meet, within existing authorities and available resources, those needs identified in the assessment as unmet and to coordinate with non-VA programs that provide services to homeless persons or homeless veterans.

Fifth, require that the plan include a list of all local private and governmental programs that offer assistance to homeless persons or homeless veterans and identify the services offered by those programs.

Sixth, require the director of each VAMC to be responsible for the carrying out of the VAMC's plan and to take appropriate steps to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless, of the services available to the veteran within the area served by the VAMC.

Seventh, require the director of each VAMC to disseminate to other Federal and State government agencies, local governments, and all private entities that provide services to homeless veterans information regarding services provided to homeless veterans by the medical center or other facilities of the Department.

Eighth, extend through fiscal year 1993 the VA's Homeless Chronically Mentally Ill (HCMI) program's authorization of appropriations and increase it from the fiscal year 1991 \$15.75-million level to \$40 million for fiscal year 1993.

Ninth, extend through fiscal year 1993 the VA Domiciliary Care for Homeless Veterans (DCHV) program's authorization of appropriations and increase it from \$15.75 million in fiscal year 1991 to \$25 million for fiscal year 1993.

Tenth, extend the HCMI program's authority (which currently expires at the end of fiscal year 1992) through fiscal year 1994.

Eleventh, authorize annual appropriations of \$1.5 million for fiscal years 1992, 1993, 1994, and 1995 for a pilot program at up to 15 sites at which VA would be authorized to contract with existing community-based organizations that have demonstrated effectiveness in providing services to homeless persons or homeless veterans for the provision of domiciliary care (including medical services) for veterans eligible for such care.

Twelfth, provide that, in entering into contracts for domiciliary care, preference be given to community-based organizations offering the most comprehensive services, particularly those services identified in the assessment as not being adequately provided by existing programs.

Thirteenth, authorize the Secretary, if it is determined that the pilot domiciliary-care programs are demonstrating effectiveness in meeting the needs of homeless veterans, to expend on these pilot programs funds appropriated for the HCMI program or the DCHV program which are above the amount expended for those programs in the preceding fiscal year.

Fourteenth, authorize VA to accept donations for the purposes of establishing one-stop, non-residential service centers and mobile support teams to assist homeless veterans and of expanding the health services available to homeless veterans eligible for VA benefits and services.

Fifteenth, require by February 1, 1994, an evaluation of the effectiveness of VA's implementation during fiscal years 1992 and 1993 of the (a) assessment of the needs of homeless veterans and plan to provide other services to meet those needs, (b) pilot program for providing domiciliary care to homeless veterans, and (c) establishment of one-stop, non-residential services and mobile support teams for the provision of services to eligible homeless veterans.

Sixteenth, extend through fiscal year 1993 the authorization of VA's mobile health clinic pilot program and provide that all funds appropriated for the program would remain available until expended.

Seventeenth, require the Secretary to establish an advisory committee on VA's prosthetics and special-disabilities programs comprised of representatives of prosthetic user groups and recognized experts in the fields of engineering, prosthetics research, rehabilitative medicine, and clinical treatment, and to require annual advisory committee reports beginning on June 15, 1993, and continuing for the next 3 years.

Eighteenth, require VA (a) to furnish services to a service-disabled veteran or the spouse of such a veteran to achieve pregnancy in cases in which the veteran's service-connected disability impairs procreative ability; and (b) to establish an interdisciplinary task force to advise the CMD on the implementation of this authority.

Nineteenth, extend through fiscal year 1996 the requirement for the Secretary to conduct a pilot program of preventive health-care services and expand the categories of veterans to whom VA is required to furnish preventive services.

Twentieth, require that veterans entitled to preventive services be offered a minimum of two preventive health-care services each year and require that each VA health-care facility annually implement a major preventive health-care and health-promotion initiative.

Twenty-first, expressly provide that the permissible scope of preventive health-care services under the pilot program include stress management, smoking cessation, physical fitness, and screening for high blood pressure, glaucoma, colorectal cancer, and cholesterol.

Twenty-second, require the Secretary to submit reports on the experience under the preventive health-care services pilot program.

Twenty-third, provide express limitations on pilot preventive health-care program expenditures and require the CMD to designate a Director of Preventive Health and Health Promotion Programs.

Twenty-fourth, authorize VA to (a) provide service dogs to quadriplegic veterans who have service-connected disabilities and signal dogs to veterans who have service-connected hearing impairments, and (b) pay a veteran's expenses for necessary travel in connection with the veteran becoming adjusted to the dog.

Twenty-fifth, require the Secretary to submit to the Congressional Committees on Veterans' Affairs by July 15, 1992, a report containing (a) an evaluation of the reasons for the accumulation of the backlog in VA's provision of prosthetic appliances that grew to \$10.6 million in fiscal year 1989 and for the failure to observe, in connection with the provision of prosthetic appliances, the statutory priorities established for the treatment of many of the veterans involved, and (b) a description of the actions that the Secretary has taken, and is planning to take, to prevent such a recurrence of the accumulation of such a significant backlog and of failure to observe such priorities.

Twenty-sixth, repeal VA's authority to provide free tobacco products to veterans receiving hospital or domiciliary care in a VA facility.

Twenty-seventh, establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions relating to eligibility for various medical assistive devices and certain other health-care benefits.

Twenty-eighth, entitle former prisoners of war to VA outpatient care for any non-service-connected disabilities.

Twenty-ninth, require that VA conduct a 4-year pilot program under which VA would be required to furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated at 10 percent or more and to facilitate the furnishing of these assistive monkeys to other quadriplegic veterans.

Thirtieth, require that, before any assistive monkeys are furnished to veterans under the pilot program, the CMD provide for an independent evaluation of the way the monkeys would be treated and ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to the conduct of the evaluation.

#### PART B—HEALTH-CARE PERSONNEL

Part B of title II contains freestanding provisions and amendments to title 38 that would:

First, authorize VA to pay additional pay to certain health-care personnel—those employed under title 5 or the title 5/title 38 "hybrid" appointment authorities who furnish direct patient care or services incident to direct patient care—for work on Saturday on the same basis as such pay is paid to registered nurses.

Second, increase the cap on special salary rates that may be paid to health-care personnel so as to permit the rates to exceed by two times the difference between the minimum and maximum of the applicable grade and require the Secretary to notify the Congressional Committees on Veterans' Affairs when a special salary rate becomes 94 (or more) percent of the maximum amount permitted.

Third, require VA to increase rates of pay for VA psychologists who have board certification by using the "hybrid" title 5/title 38 authorities unless the CMD certifies, within 90 days after the date of enactment, that an increase of board-certified psychologists is not necessary for VA to furnish the appropriate quality of psychological services to veterans.

Fourth, require the director of each VA medical center and regional office to assess the needs of the facility's employees for child-care services and to submit an annual report to the Secretary containing the director's findings and a proposal for meeting any unmet needs.

Fifth, correct problems encountered in the implementation of the VA Health-Care Personnel Act of 1991, Public Law 102-40, by requiring that physicians employed by the VA on the day before the effective date of the Act and who received special pay in only the categories of primary, full-time status, length of service, and board certification continue to receive at least as great an amount of special pay as they received prior to the effective date.

Sixth, authorize VA to appoint and pay under VA's title 38 authority nonphysician directors of clinical support services within the Veterans Health Administration, such as social work and prosthetics.

Seventh, authorize VA to use the director grade of the physician and dentist pay schedule for a physician or dentist serving in a position comparable to that of a director of a hospital, domiciliary, or independent outpatient clinic.

#### TITLE III—MINORITY AFFAIRS

Title III contains a freestanding provision and an amendment to Public Law 100-527 that would reestablish the Advisory Committee on Native-American Veterans for an additional 2 years and require the Committee

to submit two annual reports to the Committees on Veterans' Affairs.

#### TITLE IV—MISCELLANEOUS

Title IV contains freestanding provisions and amendments to title 38 that would:

First, clarify that the prohibition of attorneys' fees for representation in a proceeding before VA relating to VA benefits does not apply in the case of a veteran or other person who is confronted with an administrative debt collection action proceeding brought by VA or in other situations in which no claim for benefits is involved—such as constitutional challenges to VA regulations and Freedom of Information Act cases.

Second, authorize the flying of the POW/MIA flag at national cemeteries.

#### POST-TRAUMATIC STRESS DISORDER [PTSD]

Mr. President, the provisions of part A of title I of the bill are designed to improve VA's efforts in addressing the tremendous unmet needs for treatment of veterans suffering from PTSD.

#### BACKGROUND

I have long had special concerns about the adequacy of VA's response to veterans with PTSD and other mental health care needs.

In 1983, based on concerns that have arisen from the early experience of the Vet Centers about the extent of PTSD among Vietnam veterans, I authored legislation, enacted in Public Law 98-160, to require VA to provide for the conduct of a study to establish the prevalence and incidence in the population of Vietnam veterans of post-traumatic stress disorder and other psychological problems in readjusting to civilian life. VA contracted with the Research Triangle Institute to conduct the study.

On July 14, 1988, I chaired an oversight hearing, during which we learned that preliminary results of the mandated PTSD study showed that the incidence of PTSD among Vietnam veterans was much higher than had previously been thought. The testimony presented at that hearing—followed 4 months later by the formal release of the comprehensive \$10-million study, known as the National Vietnam Veterans Readjustment Study [NVVRS] raised serious questions about VA's capacity to furnish the care needed by veterans suffering from this disorder.

The NVVRS is often described as the finest epidemiological mental health study ever conducted, and its findings have been universally accepted and, I note, never questioned by VA.

The study's findings were alarming. The NVVRS found that 479,000 male veterans of the Vietnam theater of operations, representing slightly over 15 percent of all male servicemembers who served in the theater, were suffering from full-blown cases of PTSD. Another 350,000 male theater veterans, representing 11.1 percent of those who served in the theater, were found to be suffering from clinically significant PTSD symptoms which warranted professional attention.

In addition, the study also found that 960,000 male Vietnam theater veter-

ans—over 30 percent of all such male veterans—and over 1,900 female theater veterans—over 26 percent of all such female veterans—had suffered from the full-blown disorder at some point in their lives.

I found the NVVRS results tremendously disturbing. The best scientific inquiry found that over 800,000 men and women veterans were then suffering from symptoms of a highly disturbing, life-altering, psychological disorder that for the vast majority was clearly directly related to their service in Vietnam. However, the researchers also found that a great majority had not received the help they needed and that their utilization of VA mental health services was very low. The study reported that, of male veterans with current PTSD, only 20 percent had ever utilized any VA mental health services and that in the 12 months preceding the study, only 10.3 percent had utilized any VA mental health services. Overall, approximately 80 percent of the male veterans with current PTSD had not received mental health services from any source during the previous 12 months.

Mr. President, I am not aware of any other uncontroverted study that has documented such a great unmet need among veterans for medical treatment for a very serious condition that is directly related to their active duty service. Combat veterans' needs for treatment and services for PTSD related to their service are precisely the type of needs that the VA medical care system was established to meet. Unfortunately, despite this documented need, VA has not placed a sufficiently high priority on addressing it, and the system has simply not done very well by these veterans.

Mr. President, VA currently employs three basic models through which specialized PTSD treatment is furnished. First, specialized inpatient PTSD units [SIPU's] provide intensive care for PTSD in a hospital setting, generally through a 3-month course of treatment. Second, PTSD Clinical Teams [PCT's]—consisting of four PTE, two of which are funded through VA central office and two provided by the host medical center—provide outpatient PTSD treatment to veterans who are referred to the hospital from Vet Centers or other sources and follow-up care to veterans discharged from an SIPU. The PCT's also serve as a resource to staffs in the general psychiatry wards and in substance abuse programs in their facilities. Third, PTSD/substance abuse units [PSU's] provide either inpatient or outpatient care to veterans with a dual diagnosis of PTSD and substance abuse, which unfortunately is common among veterans with PTSD. In addition, VA has advised the committee that two new treatment program models have been developed. The first is an evaluation and brief treat-

ment PTSD unit which will consist of a short-term inpatient stay of perhaps 2 weeks, during which the veterans will be evaluated as to whether additional inpatient care is necessary and will receive intensive PTSD treatment. The second is a PTSD residential rehabilitation program which will provide domiciliary based care for veterans who have completed an inpatient PTSD treatment program and will focus on rehabilitation and preparation for independent living as opposed to intensive treatment.

The seventh annual report of the CMD's Special Committee On PTSD reported that, as of February 1, 1991, 18 VA medical centers operated SIPU's, 44 operated PCT's, and 4 operated PSU's. VA has advised that, with the \$5 million provided in the regular appropriations act for fiscal year 1991 for specialized PTSD treatment, eight new PCT's, three new SIPU's, and up to four new PSU's will be established and that some of the funds will be used to augment resources for existing SIPU's.

In the Special Committee on PTSD's most recent report, that committee reiterated the need for additional inpatient and outpatient PTSD care in the VA system. SIPU's, which are designed to treat veterans with severe cases of PTSD through an intensive 3-month program, have been plagued by chronic waiting lists for the past 3 years. The special committee reported that this problem remains; that, as of January 1, 1991, over 1,300 veterans were waiting for either pre-admission screening at the SIPU's or for admission to treatment; and that the length of wait ranged from 0 to 5 months for screening and, in addition, from 1 week to 13 months for admission to treatment. A February 1992 survey conducted by VA found that 957 veterans were waiting for inpatient PTSD treatment, with an average waiting time of 3½ months. In addition, at 12 of the 24 VA facilities with specialized inpatient PTSD programs, another 594 veterans were found to be waiting an average of 3 months just for screening. At the American Lake VAMC in Tacoma, WA, which has the only specialized program in the Pacific Northwest, the waiting time for screening is 8 months and the subsequent waiting time for admission is 13 months—a total wait of nearly 2 years for treatment for this highly debilitating psychiatric condition. Addressing the impact of this degree of waiting time for care, the special committee stated that, "for those veterans in need of specialized inpatient treatment, this inaccessibility to care can have a detrimental effect upon the veteran." I feel very strongly that this is a totally unacceptable situation.

In addition, the special committee once again recommended as it has in each of its annual reports since 1985, that each of VA's 158 medical centers with a psychiatry or psychology serv-

ice have a PCT. Moreover, the special committee noted that the specialized PTSD treatment programs that do exist tend to be located in the eastern part of our country (which) does not coincide with the location of the veteran population with PTSD treatment needs.

It is clear that, despite the modest growth in PTSD treatment activities, much more must be done before VA will have met its responsibilities to care for veterans with PTSD.

Mr. President, the NVVRS's findings of the hundreds of thousands of veterans with PTSD, the inadequate number of PTSD treatment programs, and the chronic waiting lists indicate as clearly as possible that the Department has not fully met its responsibilities to our veterans. Veterans with PTSD suffer from a disorder that is not as easily seen as is a physical injury, yet the pain they feel is no less real and their need for treatment is no less important.

#### PRIORITY CARE FOR COMBAT-SERVICE RELATED PTSD

Mr. President, section 103 of the bill, which addresses the problem of veterans with PTSD being unable to obtain needed care on a timely basis, is substantively similar to legislation I introduced in section 201 of S. 13 in the last Congress, which passed the Senate on October 3, 1989, and was reported by the committee on July 19, 1990, in S. 2100. Section 103 would require VA to provide treatment for PTSD for a Vietnam-era veteran or a veteran of another period of war or of hostilities, as determined by the Secretary, on a priority care basis once a diagnosis of the disorder has been made by a mental health professional designated by the chief medical director, and the veteran's service in a combat area is verified without the need for a pretreatment adjudication on the issue of service connection. This section would also require VA to accomplish an evaluation of a veteran within 7 days after the referral of the veteran to a VAMC from a Vet Center.

Mr. President, the practical effect of this provision would be that, if an appropriate VA diagnostician concludes that a veteran of service in a combat area is suffering from PTSD and that the PTSD is related to that service, care would be forthcoming on a priority basis without the veteran having to wait for a formal VA adjudication of service connection, as long as the Veterans Benefits Administration or another designated office or official verified that the veteran served in a combat area. This verification would have to take place as quickly as possible.

By enabling veterans suffering from combat area service related PTSD to receive VA health care on a priority basis without the need for their PTSD to be formally adjudicated as service connected, this provision would avoid

requiring these veterans to wait several months for the outcome of the VA claims adjudication process before being able to receive treatment. It would also have the effect of removing the encouragement for a veteran to seek monetary compensation for the disorder to receive necessary treatment for it.

Mr. President, I recognize that some veterans in financial distress will still need to undergo the adjudication process in order to obtain compensation. However, my purpose in recommending this provision is to make it possible to avoid, for combat-area veterans in need of PTSD care, the delay in receiving care, and the stress, that the adjudication process can entail.

I also recognize that this provision would entail some reallocation of VA resources. However, I strongly believe that any such change in focus so as better to serve the needs of veterans with combat-related PTSD is fully in accordance with the historic priorities of the VA to address those needs of veterans which are associated with their military service.

Mr. President, the provision in section 103 which requires VA to conduct evaluations of veterans referred by Vet Centers to VA medical centers within 7 days of the date of the referral addresses the situations, which are documented in the record of the committee's June 14, 1989, hearing, of veterans being referred to medical centers from Vet Centers and not being able to gain access to either evaluations or needed treatment and of Vet Centers failing to make the referral because they were certain, based on experience, that the veteran would not receive an evaluation or treatment at the medical center. By requiring that such diagnostic evaluations be conducted within 7 days after the referral is made, this provision should ensure that veterans begin the treatment process without having to wait in yet another line just to receive a diagnosis of their condition.

#### COUNSELING FOR WORLD WAR II AND KOREAN CONFLICT VETERANS

Mr. President, section 104 of the bill would expand entitlement for counseling at Vet Centers so as to include World War II and Korea veterans who served in a theater of combat operations. Since the 100th Congress, I have sought legislation to provide for counseling for all combat-theater veterans. The Senate has passed such legislation three times—in section 605 of S. 2011 in the 100th Congress, section 202 of S. 13 in the 101st Congress, and section 104 of H.R. 2280 in the 102d Congress—and Congress enacted legislation in the Persian Gulf supplemental authorization bill, Public Law 102-25, to expand entitlement for readjustment counseling to individuals who served on active duty after the end of the Vietnam era in areas in which hostilities occurred.

I note that last year the administration supported the expansion of entitlement

for readjustment counseling for post-Vietnam era combat theater veterans. In fact, the administration requested legislation that was nearly identical to the language that I had proposed, and the Senate passed, 3 years before. However, the recently enacted legislation does not address World War II and Korea veterans, many of whom seek help at Vet Centers. VA's Readjustment Counseling Service, which administers the Vet Center Program, advises that annual surveys indicate that Vet Centers see approximately 700 to 1,000 new World War II and Korea veterans each month.

Numerous research papers have been published over the last decade which provide evidence that an expansion of Vet Center eligibility would be very beneficial for some older veterans. I refer my colleagues to the pages 29-30 of the committee report accompanying S. 869—Senate Report No. 102-118—for a description of a number of these published research papers. Despite the doubts expressed by some that veterans of World War II and Korea have any need for Vet Center services, I believe the relevant research and the fact that some 8,500 to 12,000 veterans of those wars seek services each year at Vet Centers are clear evidence that such needs exist.

#### PLAN FOR ADEQUATE PTSD SERVICES

Mr. President, section 105 of the bill would require that VA, not later than July 1, 1992, devise and initiate implementation of a plan to accomplish two goals—first, increasing the availability of various forms of VA treatment of PTSD to levels commensurate with the needs of veterans suffering from PTSD as the result of active-duty service, and, second, enhancing VA's outreach activities so as to inform combat veterans, the family members of such veterans, and State and local health and social service organizations of the availability of PTSD treatment from VA and providing appropriate encouragement for the veterans to participate in treatment. The legislation would specifically require outreach efforts directed at combat veterans who are members of ethnic minority groups.

Mr. President, the provisions of section 105 would require VA to address the issue of meeting in a comprehensive manner the needs of veterans with PTSD. It would, however, provide the Department the discretion to develop the plan internally, taking advantage of the vast expertise that exists within the National Center on PTSD, the chief medical director's special committee on PTSD, and the staffs of VA's Readjustment Counseling Service and Mental Health and Behavioral Science Service.

The bill would not mandate the establishment of fixed numbers of specific types of medical programs to address this enormous problem. We have had some success in advocating for spe-

cific appropriations to expand specialized programs for PTSD treatment, and I will continue to advocate such additions. However, I believe the proper course of action to take at this point in seeking to improve PTSD services and treatment through legislation is to make clear the high priority Congress attaches to meeting PTSD needs and require VA to carry out a mandate to make the necessary improvements.

This is similar to the approach that I followed in the late 1970's which led to the establishment of vet centers to carry out the legislative mandate to provide readjustment counseling, and I am confident that such an approach with regard to providing PTSD care on a priority basis would result in similar broad expansions of specialized PTSD treatment programs such as SIPU's, PCT's, PSU's, and any new treatment models that may be developed, that prove effective in meeting the mandate that this legislation would create.

#### PTSD REPORT

To ensure that Congress is a fully informed participant in the process of change that VA would be required to undertake to meet the needs of veterans with PTSD, section 106 of the bill would require VA, not later than 90 days after the date of enactment of this legislation, to submit to the Committees on Veterans' Affairs of the Senate and House a report describing the plan VA would be required to develop. The report would be required to include a description of what facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach in accordance with the plan, and a description of what efforts have been undertaken by the Secretary to make those resources available for the treatment of PTSD.

Taking into account the available data regarding veterans' PTSD-care needs, I believe that, by providing VA with a 3-month period after the enactment of this legislation to develop a plan and prepare a report on it, the bill would grant ample time to VA to determine the number and type of new specialized PTSD treatment programs and appropriate expansions of existing programs that would be required to meet the treatment needs of veterans with PTSD. Taken as a whole, this legislation would make unmistakably clear Congress' assessment that much, much more needs to be done, and that Congress places a top priority on caring for veterans with service-related psychological problems.

Mr. President, the provisions of part A of title I of the committee bill are intended to place the proper priority on treating veterans with PTSD related to their service and to create meaningful expansions and improvements in VA's system of providing mental health care to veterans who need it as a result of their service. I have been in-

creasingly disappointed that for years the Department has been unwilling to make meaningful changes and address a painfully obvious problem among those whom it is required to serve. In my role of chairman of the Veterans' Affairs Committee it has long been my view that this is the area in which VA has most clearly failed to meet its primary mission to serve those who are wounded—whether psychologically or physically, or both—in the service of our Nation. I applauded the administration's actions when it sent vet center staff to California in the hours after the Loma Prieta earthquake to provide needed counseling to the victims, and I was equally supportive of the administration's offer to make the staff of the National Center on PTSD available—on call, in fact—to American civilians who had been taken hostage in the gulf subsequent to the Iraqi invasion of Kuwait. Such actions demonstrate the value of VA's excellent staff and leading research in stress-related psychiatric care.

However, it is clear that the veterans who are in need of care as a result of their service must take the highest priority when the VA weighs and ranks its many competing priorities. The hundreds of thousands of Vietnam combat veterans whose PTSD is documented, and the untold thousands of combat veterans from World War II and Korea that evidence suggests are still suffering from PTSD have waited far too long for the help they need. Moreover, the Persian Gulf war has presented VA with a new generation of wartime veterans and, despite the rapid conclusion of the war and the minimal U.S. casualties, mental-health experts have cautioned that significant numbers of those who served were exposed to stresses that may lead to psychological problems requiring treatment. It is thus imperative to move ahead to address the problem we already know of and prepare to respond to those that may arise with this new group of wartime veterans.

#### MENTAL ILLNESS RESEARCH AND EDUCATION

Mr. President, part B of title I of the bill contains provisions that would require the Secretary to designate not more than five VA health-care facilities as the locations for centers of excellence in the area of mental illness. These centers, to be known as MIRECC's, would focus on research, education, and clinical activities related to mental illness. At least one of the MIRECC's would have to be designated by January 1, 1993.

#### BACKGROUND

The October 20, 1985, report of the special purpose committee to evaluate the Mental Health and Behavioral Sciences Research Program of the VA, which was chaired by Dr. Seymour Kety—and hereinafter referred to as the "Kety committee"—concluded that research on mental illness and training

for psychiatrists and other mental health specialists at VA facilities were totally inadequate. The report noted that about 40 percent of all VA beds are occupied by veterans who suffer from mental disorders, whereas less than 10 percent of VA's research resources are directed toward mental illness.

In order to improve and expand the capability of VA health-care facilities to respond to the needs of veterans with mental-illness disabilities, the Kety committee recommended that VA centers of excellence be established to develop first-rate psychiatric research programs within VA. Such centers would provide state-of-the-art treatment, increase innovative basic and clinical research opportunities and enhance and encourage continuing education and training in the treatment of mental illness.

Based on the recommendations of the Kety committee, the committee began efforts over 4 years ago to encourage more research into mental illnesses and to establish centers of excellence. First, legislation enacted on May 20, 1988, Public Law 100-322, included a provision—derived from section 316 of S. 9 as reported by the committee on November 6, 1987—to add an express reference to mental illness research in the statutory description of VA's medical research mission, now set forth in section 7303(a)(2) of title 38. This reference in the law is intended to express the importance of research to mental health care and thereby to help counteract the historical trend of underfunding mental illness research.

Second, the committee report accompanying that legislation (S. Rept. No. 100-215, page 138), urged VA to establish three centers of excellence, or MIRECC's, as proposed by the Kety committee. VA has to yet to take any action to do so.

Testimony received at this committee's April 23, 1991, hearing was very supportive of this provision. For example, the witnesses representing the national associations of VA chiefs of both psychiatry and psychology stressed that the establishment of MIRECC's would improve VA's ability to attract top notch psychiatrists and psychologists and thus enhance the Department's ability to provide high-quality mental health services to veterans.

Dr. Spencer Falcon, former president of the National Association of VA Chiefs of Psychiatry and chairman of the VA's Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder, and currently regional chief of staff for VA's central region, testified:

Funding for psychiatric research in the VA has remained vastly disproportionate to the utilization of psychiatric services. While psychiatric problems account for about 40 percent of inpatient days in VA medical budget \*\*\*. The establishment of MIRECC's is a modest investment to make when one considers the potential benefits that could

result from the mental health research that would be conducted, and the potential for attracting highly trained scientists and clinicians to VA employment.

Mr. President, I also note that the January 1991 final report of the VA Advisory Committee for Health Research Policy, a blue ribbon committee established by the Secretary of Veterans Affairs, recommended that VA establish MIRECC's as a means of increasing opportunities in psychiatric research and encouraging the formulation of new research initiatives in mental health care as well as maintaining the intellectual environment so important to quality health care. The report stated that these "centers could provide a way to deal with the emerging priorities in the VA and the Nation at large."

The proposed MIRECC's would be modeled after the successful Geriatric Research, Education, and Clinical Centers [GRECC's], which were provided for in section 302 of Public Law 96-330, enacted in 1980, and of which there were 15 at VAMC's in fiscal year 1992. The MIRECC's would be designed to, first, congregate at one facility clinicians and investigators with a clear and focused clinical research mission, such as PTSD, schizophrenia, or drug and alcohol abuse; second, provide training and educational opportunities for students and residents in psychiatry, psychology, nursing, social work, and other professionals which treat individuals with mental illness; and third, develop new models of effective care and treatment for veterans with mental illnesses, especially those which are service connected.

I believe that the establishment of MIRECC's would also encourage research into outcomes of various types of treatment for mental illnesses, an aspect of mental-illness research which, to date, has not been fully pursued either by VA or other researchers in the field.

The bill would promote research at the MIRECC's by requiring that, in the awarding of research funds for mental-illness projects, MIRECC applications be given a priority. Centers would include an emphasis on the psychosocial dimension of mental illness and on developing models for furnishing care and treatment of mental illness.

Further, the bill would promote the dissemination of information regarding all aspects of MIRECC activities throughout VHA by requiring the CMD to develop continuing education programs provided at regional medical education centers.

Finally, beginning February 1, 1993, the Secretary would be required to submit to the Veteran's Affairs Committees three annual reports on the research, educational, and clinical care activities at each MIRECC and on efforts to disseminate the information throughout the VA health-care system.

The administration of the program would be assigned to the VA central office official responsible for mental health and behavioral sciences, currently the Director of Mental Health and Behavioral Sciences.

Mr. President, VA has for far too long placed inadequate emphasis on researching and treating the mental-health problems of veterans and on educational activities designed to improve the capabilities of VA mental-health professionals. The establishment of MIRECC's pursuant to section 121 of the bill would be a long-needed improvement in this regard, and I am hopeful that this is the year our legislation will be enacted.

#### TITLE II—GENERAL HEALTH CARE

Mr. President, I noted earlier the many important provisions contained in title II of the bill and will at this time highlight provisions which relate to two matters that I consider of the utmost importance: prosthetics services and services for homeless veterans.

#### PROSTHETICS

Section 201 of the bill would address a problem that exists with regard to VA's authority to provide prosthetic appliances.

Under current law, VA is generally prohibited from furnishing to certain veterans—those who are receiving outpatient care for non-service-connected disabilities in order to obviate the need for hospitalization—prosthetic devices and various other medical items which could prevent the need for future inpatient hospitalization. This situation arose because, when legislation changing the eligibility standards for outpatient care was enacted in 1973, the eligibility standards regarding prosthetic devices was not. Thus, for example, under current law, such a veteran receiving outpatient obviative care cannot be furnished a corrective shoe for a non-service-connected foot ulcer even though the lack of the shoe may lead to later hospitalization and possible amputation of the foot. Likewise, this restriction of non-service-connected care prevents VA from providing an amputee who has a stump abrasion with a liner for, or simple repairs to, his or her artificial limb to prevent further breakdown and subsequent hospitalization. Similarly, a paralyzed, wheelchair-bound veteran prone to bed sores cannot be provided an appropriate cushion to relieve pressure areas. The restriction does not apply when a veteran is receiving inpatient care.

Section 201 of the bill would, upon a determination by the Secretary that the particular items are necessary, permit VA to provide them in preparation for, or to obviate the need for, hospitalization. This provision would not authorize VA to provide prosthetic devices and other medical supplies to all veterans, and some of the most commonly requested prosthetic items, such

as eyeglasses and hearing aids, would not be furnished under this new authority because they are generally not the types of devices that are needed in order to obviate the need for, or prepare for, inpatient care. Although this provision does have an estimated cost of \$7 million, I believe that any cost increases this provision would bring to VA's prosthetics service would be offset substantially by improvements in outpatient care resulting in reduced hospital admissions for conditions that, in the absence of provision of a prosthetic device or medical item, would otherwise deteriorate to the point at which a costly surgical procedure is required.

Mr. President, section 205 of the bill would require the Secretary to establish an advisory committee on VA's prosthetics and special-disabilities programs comprised of representatives of prosthetics user groups and recognized experts in the various medical and engineering fields related to prosthetics. The advisory committee would be required to submit three annual reports beginning on June 15, 1993.

During the last session of the 101st Congress, the Veterans' Affairs Committee engaged in extensive oversight of VA's prosthetics and special-disabilities programs. Those efforts were described in the committee's report on S. 2100 (S. Rept. No. 101-379, beginning on page 463). They culminated in a 4-hour hearing on the issues on June 7, 1990. The result of our efforts, in short, was the identification of numerous serious problems in the way in which VA's prosthetics programs are funded, administered, and monitored. VA has acknowledged many of the problems and has taken steps to address many of them, including the establishment of an internal advisory committee, which Deputy Secretary Principi announced at the 1990 hearing. However, it was a full 13 months later that the administratively established advisory committee first met.

Mr. President, because of the great importance that I attach to the VA's prosthetics and special-disabilities programs and the lengthy delay in VA's own advisory committee being established and finally meeting, I believe strongly that a congressionally chartered advisory committee with a clear mission and reporting requirement is necessary to ensure that these programs maintain their high visibility and the Secretary and Congress remain fully informed in a timely manner. I regret that this provision is necessary after the extensive efforts our committee made in identifying the problem areas and the clear need for continued high-level oversight of these programs; yet the experience to date with respect to the administratively established committee convinces me that legislation is required.

#### EXPANDED SERVICES FOR HOMELESS VETERANS

Mr. President, section 203 of the bill is designed to provide VA with a comprehensive blueprint on how to address the problem of homelessness among our veteran population. Section 203 contains provisions that would require VA medical centers or regional benefits offices, in coordination with all other VA facilities in the appropriate service areas and local groups involved in serving homeless persons, to conduct assessments of the needs of homeless veterans living within the areas served by those centers or offices; develop plans to address the needs of these veterans which are identified as not being met by the existing network of VA and other programs; establish a 3-year, \$4.5-million pilot program at up to 15 sites at which VA would be authorized to contract for domiciliary care for homeless veterans; extend VA's Homeless Chronically Mentally Ill Veterans [HCMV] Program through fiscal year 1994; and increase the authorizations of appropriations for the HCMV and Domiciliary Care for Homeless Veterans [DCHV] Programs.

Mr. President, although it has proven very difficult for anyone to determine with accuracy the exact size of the homeless population in the United States, several credible groups and researchers involved with the issue of homelessness have published estimates. For example, the National Coalition for the Homeless estimates that as many as 3 million individuals are currently homeless and that the numbers continue to grow. The National Alliance to End Homelessness estimates that as many as 736,000 persons may be homeless on a given night and that between 1.3 million and 2 million persons may experience homelessness at some point during the year. Countless others may be teetering near the brink of homelessness—one missed paycheck or personal crisis away. These numbers reflect an extremely urgent problem.

The best recent estimates indicate that between 450,000 and 700,000 Americans are literally homeless—sleeping on the streets or in homeless shelters—on an average night and that 80 percent of them are males. Studies have shown that approximately one third of the homeless are veterans. It thus seems reasonable to estimate that there are, at any given time, between 150,000 and 250,000 literally homeless veterans in America. If the estimates of the National Coalition on the Homeless are used as a base, the number of homeless veterans may be as high as 1,140,000. At the committee's April 23, 1991, hearing, Dr. Spencer Falcon, testifying on behalf of the American Psychiatric Association, estimated that on any given night there are up to 200,000 homeless veterans in America. According to Dr. Falcon, approximately 80 percent of those veterans are severely and chron-

ically mentally ill and nearly half of the chronically mentally ill have serious medical problems.

As noted in the committee report accompanying S. 869—S. Rept. No. 102-118, pages 49-50—researchers have found that, of those who are homeless, as many as 33 percent are chronically mentally ill.

Through the HCMI Program, in combination with the DCHV Program, VA has provided shelter and medical and psychiatric treatment for over 35,000 homeless veterans in need of such help.

The HCMI Program is a community-based program that combines aggressive outreach with health-care services, intensive care management, and time-limited care in non-VA residential treatment centers. The results from the program have been encouraging. In the program's first 3 years, staff in 45 VA Medical Centers in 26 States and the District of Columbia were able to carry out assessments of approximately 30,000 mentally ill, homeless veterans and place 8,000 of them in residential treatment facilities. Given the difficult nature of contacting these veterans—in soup kitchens, shelters, and on the streets—and of building trust between the veteran and the outreach worker, which is necessary to make an assessment and provide for physical and mental examinations, this level of activity indicates considerable success on the part of the program's outreach workers.

Program evaluations show that the HCMI Program is reaching those it was intended to reach: Long-term homeless, extremely poor, chronically mentally ill veterans. The 1990 Annual Report of the Interagency Council on the Homeless indicates that over 21 percent of those assessed by HCMI staff had been homeless for 2 or more years and had a median monthly income of \$207. The fourth annual report detailing the progress of the HCMI Program was submitted to the committee in August 1991. That report indicated that 32.3 percent of the homeless veterans assessed reported having been hospitalized in the past for a general psychiatric problem.

Not surprisingly, given that the need for ongoing care is the rule rather than the exception in the treatment of chronically mentally ill persons, the clinicians determined that, at the time of discharge from the program, about half of the veterans had shown improvement but were in need of additional treatment. The 1989 report on the program indicated that only one out of eight veterans had improved to the point of needing no further treatment.

The DCHV Program is composed of five clinical phases: First, community outreach and referral; second, admission screening and assessment; third, medical and psychiatric evaluation; fourth, medical and psychiatric treat-

ment and social-vocational rehabilitation; and, fifth, post-discharge community support. VA's second progress report on the DCHV Program, submitted to the committee on February 22, 1990, indicated that the services most frequently provided were medical and psychiatric evaluation and treatment, to over 90 percent of the patients; vocational rehabilitation, 58.5 percent; and basic services such as clothing, 31.3 percent. Outcome data recorded at discharge indicated that veterans with medical problems showed the most frequent improvement during the course of DCHV treatment—76.1 percent—and that over half of the veterans who had a mental health problem or a substance-abuse problem showed improvement. Testament to the large demand that exists among homeless veterans for domiciliary care is the occupancy level at the DCHV sites which the committee has been told remains consistently above 100 percent.

Visits by committee staff to domiciliary facilities at the Coatsville, PA, VAMC and the West Los Angeles, CA, VAMC, have reinforced the committee's view that the DCHV Program can be an effective and compassionate way of assisting homeless veterans. It is the committee's view that VA's HCMI and DCHV programs have helped meet many of the short-term needs of homeless veterans—a place off the street to sleep; the opportunity to receive needed medical and mental health assessments; and the furnishing of appropriate care and rehabilitative services. These services are not luxuries; they constitute humane responses to basic human needs.

Mr. President, the reports on these programs indicate that additional resources and approaches are needed to enhance and improve the programs' capacities and effectiveness. The third progress report on the HCMI Program, for example, recommended that there be established integrated, comprehensive service programs for homeless veterans coordinated among the HCMI Program, the DCHV Program, and other VA programs assisting homeless veterans. I am aware of one such comprehensive service center established by VA in Dallas and am hopeful that VA will continue to expand upon this concept. I believe that the expanded authorizations and services for homeless veterans provided for in the bill would allow VA to develop and establish such programs and increase the number of sites at which the programs operate, as well as assign additional personnel to the existing HCMI and DCHV Programs.

Mr. President, the bill would increase the level of appropriations authorized for the HCMI and DCHV Programs in fiscal year 1993 and extend the authority of the HCMI Program through fiscal year 1994. For the HCMI Program, the current \$30 million level of funding

authorized for fiscal year 1992 would be increased to \$40 million in fiscal year 1993. The DCHV Program's authorized levels of appropriations would be increased from the current level of \$22.5 million for fiscal year 1992 to \$25 million for fiscal year 1993. I believe that these increases are warranted given the general successes of these programs and the need for additional services for homeless veterans indicated by the large numbers of homeless veterans, the over-filled domiciliaries, and the VA evaluations of the HCMI and DCHV Programs indicating that expansions and enhancements are needed.

The bill would also require VA medical centers or regional benefits offices, in consultation with existing organizations providing services to homeless persons in the area, to conduct assessments with respect to the needs of homeless veterans for health care, education and training, employment, shelter, counseling, and outreach services. The assessments would be required to indicate the extent to which the network of existing VA and non-VA programs meet the identified needs of homeless veterans. The purpose of this assessment would be to allow VA to identify the gaps in the existing network of systems providing services to homeless veterans and to develop appropriate plans to address those areas.

VA's own evaluation of its homeless veterans programs, which was submitted to the committee on October 3, 1991, noted that VA's approach in assisting homeless veterans involves "link[ing] all VA components; i.e., Veterans Health Services and Research Administration [VHSRA] [non-Veterans Health Administration] and Veterans Benefits Administration [VBA], with local organizations, veterans' service organizations, and other Federal programs which provide assistance to homeless veterans" and that the "extensive communication and networking \* \* \* is vital to the success of these programs." Thus, the bill's requirement that such linkage be pursued is fully consistent and complementary to VA's current activities and policies.

Mr. President, the assessments that would be required by the bill would help to avoid rigid, centrally operated programs and lead to local programs that address the problems faced by homeless veterans at the local level. In addition, the bill would establish a pilot program to determine the effectiveness of providing, through contracts with existing community-based organizations, domiciliary care including medical services to homeless veterans eligible for such care from VA. Appropriations of \$1.5 million per year would be authorized for each of fiscal years 1992, 1993, 1994, and 1995 for pilot projects at up to 15 sites per year.

This new authority would allow VA to enter into contracts with non-VA fa-

cilities to provide services to homeless veterans who are in need of medical, psychological, or rehabilitative services. Community-based halfway houses, therapeutic residences, or shelters that provide medical, vocational, or rehabilitative services similar to those provided for VA domiciliary facilities would be the types of facilities that would qualify for contracts under this new authority.

Finally, the bill would authorize the Secretary to accept donations of funds and services for the purposes of establishing one-stop, nonresidential services and mobile support teams for the assistance of, and for expanding the medical services to, homeless veterans already eligible for such services from VA. As noted earlier, such one-stop nonresidential services were recommended by VA in its February 1990 evaluation of the HCMI Program. The VA's homeless program evaluation submitted to the committee on October 3, 1991, also noted that VA-run drop-in centers for homeless veterans, such as the two which are currently operating in New York City, address basic needs that many homeless veterans have:

Some veterans who live on the street or in shelters may not be motivated or ready for treatment when they first come in contact with the VA clinician. Many are in need of a place to shower, wash their clothes, have a meal, or maybe just sit quietly in a safe place where they will not be disturbed during the day. Drop-in Centers meet these needs, and encourage veterans to participate in medical screening, individual group and counseling sessions, and education programs. Services from an on-site Veterans Benefits Counselor may also be provided.

Mr. President, I believe the authority provided by the bill would allow VA to gain access to resources above those allocated to or by the Department, and allow VA to encourage more extensive community participation in and support for its programs for homeless veterans.

#### MINORITY AFFAIRS

Mr. President, section 301 of the bill would reestablish the Advisory Committee on Native-American Veterans, which was originally established by section 19032 of the Veterans' Health-Care Amendments of 1986—Public Law 99-272. That advisory committee issued its final report in 1988 and its charter subsequently lapsed. In 1990, acting in response to a recommendation by the advisory committee, VA established the interagency Native American Veterans Coordinating Council to oversee implementation of the advisory committee's recommendations and to promote interagency coordination and joint planning in the furnishing of services to native American veterans.

A reestablished Native-American Veterans Advisory Committee and the coordinating council would function in ways that complement each other's activities. A congressionally chartered, consumer-oriented advisory committee

would bring important differences in perspective and purpose to issues that an executive branch, provider-oriented council cannot. Thus, I believe that the reestablishment of the Advisory Committee on Native-American Veterans would go a long way toward ensuring that issues of importance to native American veterans are identified and addressed by VA and other Federal agencies.

#### MARRIAGE AND FAMILY COUNSELING

Mr. President, as noted above, the bill would require VA to conduct a program to furnish marriage and family counseling services to certain veterans of the Persian Gulf war and their families. This legislation, which I originally introduced in S. 1553, was reported by the committee on September 24, 1991, and passed by the Senate on November 15, 1991. I refer my colleagues and others with an interest in these provisions to the committee report on S. 1553—Senate Report No. 102-159—and to my statement in the RECORD for November 15 at pages S 16866-72.

#### CONCLUSION

Mr. President, in closing I thank our committee's ranking Republican member, Senator SPECTER, for his continued support of and help with this legislation. I also am grateful to the other members of the committee for their cooperation on this measure.

I look forward to working with the chairman of the House Veterans' Affairs Committee, G.V. "SONNY" MONTGOMERY, and that committee's ranking Republican member, BOB STUMP, as well as with the other members of the House committee, in the further development and enactment of this important legislation on a timely basis.

Mr. President, I believe the bill addresses in a fair and reasonable manner very pressing needs of our Nation's veterans, and I urge my colleagues to support it.

Mr. SIMPSON. Mr. President, I am pleased to say that we on the Veterans' Affairs Committee were able to compromise on this important legislation regarding post-traumatic stress disorder [PTSD], marriage and family counseling, mental health research, and general health care.

I believe I have made it clear in the past how I feel about the provision in this bill which expands vet center eligibility to include World War I and Korean conflict veterans. I am concerned about this expansion of benefits. These benefits were created solely for Vietnam veterans.

Frankly, I find it difficult to believe that veterans who participated in World War II, average age of 69, need services provided through readjustment counseling centers established for Vietnam era veterans.

I also am very concerned about the provision in this bill which provides an entitlement to inpatient and out-

patient care for the treatment of posttraumatic stress disorder [PTSD] for veterans irrespective of service connection.

But we have debated these issues and provisions already, and so, I will not resurrect this sensible argument.

So, I would just sound my usual note of caution. We must stop creating these new entitlements and expanding existing entitlements when we do not have any way of paying for them. That is plain wrong.

Surely we must be more responsible, especially considering that the national debt recently approached \$4.2 trillion, and the deficit this year alone was \$350 billion.

It is political posturing when we authorize programs we say will benefit veterans when we honestly know we can not pay the freight. When we do that—we are certainly not acting in the best interest of American veterans. In fact—we are doing a great disservice to them.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to join our distinguished chairman, Senator CRANSTON, as an original cosponsor of the Veterans' Health Care Amendments of 1992. This bill incorporates the provisions of S. 869, as amended and passed by the Senate on November 20, 1991, with minor technical amendments.

Mr. President, we seek passage of this bill in order to restart negotiations between the House and Senate on matters of great importance to veterans. As we closed last session, the Senate passed S. 869, the Veterans' Health Care Amendments of 1991, substituted its provisions for the text of H.R. 2280, the Veterans' Health Care and Research Amendments of 1991, which the House had passed in June of last year. In the closing week of the first session, Chairman CRANSTON and I worked closely with House Veterans' Affairs Committee Chairman MONTGOMERY and ranking Republican member STUMP to fashion a compromise of some important health provisions from H.R. 2280 and S. 869. Despite the shortness of time, we very nearly achieved this compromise, which was passed by the House as House Resolution 300 on November 25, 1991. Unfortunately, we could not reach agreement on all provisions, and the session ended without passage of the 14th substantive veterans' bill.

Our aim in passage of this measure, Mr. President, is to get the negotiations moving again. I emphasize to my colleagues that there are no substantive differences between this bill and the bill the Senate passed as S. 869.

As I have said many times, Mr. President, no issue has a higher priority with me than veterans' health care. This bill, which was the subject of thoughtful debate last November, pro-

vides important assistance to the veterans' health care program. As importantly, I look to its passage as a means of restarting negotiations with our colleagues in the other body to continue our work of providing for our Nation's veterans.

I urge my colleagues to support this bill.

The PRESIDING OFFICER. Without objection, the bill is deemed read the third time and passed.

So the bill (S. 2344) was passed, as follows:

S. 2344

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.**

(a) **SHORT TITLE.**—This Act may be cited as the "Veterans Health Care Amendments Act of 1992".

(b) **REFERENCES TO TITLE 38.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**TITLE I—MENTAL HEALTH**

**PART A—POST-TRAUMATIC STRESS DISORDER**

**SEC. 101. SHORT TITLE.**

This part may be cited as the "Veterans Post-Traumatic Stress Disorder Treatment Act of 1992".

**SEC. 102. FINDINGS.**

The Congress finds the following:

(1) Post-traumatic stress disorder (PTSD) is a highly disruptive and debilitating psychological disorder that can result from exposure to combat or any other traumatic event outside the range of conventional human experience.

(2) Post-traumatic stress disorder can have a destructive impact on the life of a person suffering from the disorder by adversely affecting his or her behavior, ability to work with, relate to, and communicate with others, and ability to maintain gainful employment.

(3) In 1980, the American Psychiatric Association officially recognized PTSD as a diagnosis in its "Diagnostic and Statistical Manual of Mental Disorders (Third edition)" and identified combat experience as a potential cause for PTSD.

(4) A Congressionally-mandated study of Vietnam-era veterans, released in November 1988, regarding the frequency of symptoms of PTSD and other problems relating to readjustment from combat of such veterans, found that 479,000 male veterans of the Vietnam theater of operations (representing 15.2 percent of all such male veterans) suffered from the full effects of PTSD and that another 350,000 of such veterans (representing 11.2 percent of all such male veterans) experienced some symptoms of the PTSD.

(5) That study also found higher incidences of PTSD among Black and Hispanic male veterans of the Vietnam theater of operations than among all male veterans of that theater, but did not include data on the incidence of the disorder among veterans of other ethnic groups.

(6) A large body of evidence indicates that such psychological disorders related to combat stress as war neurosis, combat fatigue, and the disorder commonly known as "shell

shock" are analogous to PTSD and that thousands of veterans of combat in World War II and the Korean war experienced and continue to experience symptoms of such disorders.

(7) That evidence also indicates that veterans of combat in military operations conducted after the Vietnam era, including operations in Lebanon, Granada, and Panama, also suffer from symptoms of PTSD.

(8) Although debilitating, PTSD can be treated successfully, and an individual experiencing the disorder can learn coping skills, including how to mitigate the effects of the anxiety, depression, anger, guilt, fear, alienation, and emotional outbursts that he or she experiences.

(9) Early intervention and treatment of acute PTSD can be an important part of a therapeutic course to prevent long-term chronic PTSD.

(10) The Department of Veterans Affairs has a responsibility to provide opportunities for treatment of PTSD and other stress-related psychological problems to the hundreds of thousands of combat veterans who suffer from PTSD and to conduct outreach activities that provide both actual notice of the availability of such treatment to those veterans and appropriate encouragement for such veterans to participate in the treatment.

(11) The Department has made some progress in expanding diagnosis and treatment programs relating to PTSD.

(12) Through readjustment counseling, specialized inpatient and outpatient programs, and general psychiatric services offered in its hospitals and outpatient clinics, the Department has provided needed treatment to thousands of veterans for PTSD.

(13) Despite such progress the Department can and should be doing much more to provide treatment to veterans for PTSD and other stress-related psychological problems and to provide outreach services to make veterans aware of, and encourage them to participate in, treatment opportunities available through the Department.

(14) It is in the public interest for the Secretary of Veterans Affairs to develop a plan that ensures immediate, on-demand treatment opportunities for the thousands of veterans who suffer from, and need treatment for, this disruptive, life-threatening disorder.

**SEC. 103. CARE FOR COMBAT-THEATER VETERANS WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER.**

(a) **REQUIREMENT TO FURNISH CARE AND SERVICES.**—(1) Section 1702 is amended—

(A) by inserting "(a)" before "For"; and  
(B) by adding at the end the following new subsections:

"(b)(1) A veteran referred to in paragraph (2)(A) who is diagnosed by a mental health professional designated by the Chief Medical Director (following an examination of the veteran by such professional) to be suffering from post-traumatic stress disorder related to service referred to in such paragraph shall be furnished care and services for such disorder pursuant to sections 1710(a)(1)(A) and 1712(a)(1)(A) of this title even though such disorder has not been determined to be service connected.

"(2)(A) A veteran eligible for the care and services referred to in paragraph (1) is a veteran who, as determined by the Chief Benefits Director, served on active duty in a theater of combat operations (as defined by the Secretary) during World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, or in any other area during a period in which hostilities occurred in such area.

"(B) In the case of a veteran who is diagnosed as suffering from post-traumatic stress disorder, the determination of whether the veteran served on active duty as described in subparagraph (A) shall be made by the most expeditious means practicable.

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense."

(2)(A) The heading of such section is amended to read as follows:

**"§ 1702. Special provisions relating to mental illness disabilities."**

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1702. Special provisions relating to mental illness disabilities."

(b) **TIMELINESS OF EVALUATION AND VERIFICATION OF STATUS.**—Section 1712A is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) Whenever a veteran is referred by a center to a Department general health-care facility for a determination regarding such veteran's eligibility for care and services under section 1702(b) of this title, the veteran shall be evaluated for diagnostic purposes within seven days after the date on which the referral is made."

**SEC. 104. ELIGIBILITY FOR SERVICES AT VET CENTERS.**

Subsection (a) of section 1712A is amended by adding at the end the following new paragraph:

"(3) Upon the request of any veteran who served on active duty in a theater of combat operations (as defined by the Secretary) during World War II or the Korean conflict, the Secretary shall furnish counseling to such veteran in order to assist the veteran to overcome any psychological problems associated with such service. The counseling shall include a general mental and psychological assessment to ascertain whether the veteran has mental or psychological problems associated with such service."

**SEC. 105. IMPROVEMENT OF POST-TRAUMATIC STRESS DISORDER TREATMENT AND OUTREACH SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) **PLAN FOR TREATMENT AND OUTREACH SERVICES IMPROVEMENT.**—Not later than June 1, 1992, the Secretary of Veterans Affairs shall devise and initiate implementation of a plan—

(1) to increase the availability of treatment of veterans suffering from post-traumatic stress disorder by the Department of Veterans Affairs (including treatment provided in inpatient and outpatient programs providing specialized treatment for PTSD, treatment for PTSD in conjunction with substance abuse, and treatment in Vet Centers) to levels commensurate with the needs of veterans suffering from the disorder as a result of active duty; and

(2) to enhance outreach activities—  
(A) to inform combat veterans (including veterans who are members of ethnic minority groups), the family members of such veterans, and appropriate State and local health organizations and social service organiza-

tions of the availability of such treatment; and

(B) to provide appropriate encouragement for such veterans to participate in such treatment.

(b) SPECIAL CONSIDERATIONS.—In devising the plan, the Secretary shall consider—

(1) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD across the United States;

(2) the desirability of providing for inpatient PTSD care to be furnished to such veterans in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department; and

(3) the treatment needs of such veterans who are women, of such veterans who are members of ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems as well as PTSD.

(c) IMPLEMENTATION.—In carrying out the plan, the Secretary shall—

(1) prescribe a schedule for the implementation of the plan;

(2) prescribe appropriate criteria for the selection and training of staff necessary to increase the availability of the treatment and enhance the outreach activities referred to in subsection (a); and

(3) provide the facilities, personnel, funds, and other resources necessary to carry out the plan.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "Vet Center" shall have the meaning given the term "center" in section 1712A(j)(1) of title 38, United States Code (as redesignated by section 103(b)(1) of this Act).

(2) The term "active duty" shall have the meaning given such term in section 101(21) of such title.

(3) The term "veteran" shall have the meaning given such term in section 101(2) of such title.

#### SEC. 106. REPORT BY THE SECRETARY OF VETERANS AFFAIRS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and subject to subsection (b), the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan required by section 105. The report shall contain the following information:

(1) A description of the plan.

(2) What facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach activities in accordance with the plan in a manner that does not reduce the existing capacity of the Department of Veterans Affairs to provide treatment for other conditions.

(3) A description of the efforts undertaken by the Secretary to make such resources available for the treatment of veterans for post-traumatic stress disorder.

(4) An estimate of the availability of community-based residential treatment of veterans for post-traumatic stress disorder and the impact of such availability on the increased availability of such treatment by the Department.

(5) An assessment of the need for, and potential benefit of, making available scholarships, tuition reimbursement, or other educational assistance to health-care students and health-care professionals in order to improve the training and specialization of such individuals in the provision of such treatment.

(6) A description of the efforts of the Secretary to implement the recommendations of the Special Committee on Post-Traumatic Stress Disorder referred to in subsection (b) with respect to—

(A) establishing educational programming that is directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD; and

(B) giving research relating to PTSD a high priority in the allocation of funds available to the Department in research activities relating to mental health.

(7) Such other proposals and recommendations as the Secretary considers appropriate to increase the availability of such treatment.

(b) REPORT ASSISTANCE.—In preparing the report referred to in subsection (a), the Secretary shall consult with the Special Committee on Post-Traumatic Stress Disorder established pursuant to section 110(b) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) and the Secretary's Advisory Committee on Readjustment of Vietnam and Other War Veterans.

#### SEC. 107. SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

(a) EVALUATION OF STUDY OF POSTWAR PSYCHOLOGICAL PROBLEMS OF VIETNAM VETERANS.—(1) Not later than January 1, 1993, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the "Special Committee") established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) shall submit concurrently to the Secretary of Veterans Affairs and the Committees on Veterans' Affairs of the Senate and House of Representatives (hereinafter in this section referred to as the "Committees") a report setting forth the Special Committee's evaluation of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (38 U.S.C. 1712A note). Such report shall include the Special Committee's—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Department of Veterans Affairs to meet the need for diagnosing and treating veterans for post-traumatic stress disorder and for other psychological problems in readjusting to civilian life, as estimated in the results of such study;

(C) evaluation of the Secretary's report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee's report under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98-528.—(1) Not later than January 1 of each of 1993 and 1994, the Special Committee shall concurrently submit to the Secretary and the Committees a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving each of the Special Committee's reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

#### SEC. 108. FUNDING FOR POST-TRAUMATIC STRESS DISORDER PROGRAMS.

In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary of Veterans Affairs submits to the Congress in conjunction with the President's budget submission for fiscal year 1994 and for fiscal year 1995 pursuant to section 1105 of title 31, United States Code, the Secretary shall identify the amounts in the appropriations requests for Department accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from post-traumatic stress disorder (hereinafter in this section referred to as "PTSD") that is service connected;

(2) the treatment of veterans by or at the expense of the Department for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note);

(B) in inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs;

(C) in readjustment counseling programs pursuant to 1712A of title 38, United States Code; and

(D) under contract through non-Department sources furnishing (i) readjustment counseling services pursuant to section 1712A(e) of such title, (ii) mental health services pursuant to such section 1712A(e), or (iii) mental health services pursuant to other authority, and described in the first annual report submitted pursuant to section 110(e)(1) of the Veterans' Health Care Act of 1984 as having been proposed by the Special Committee on Post-Traumatic Stress Disorder;

(3) education, training, and research at—

(A) the National Center on Post-Traumatic Stress Disorder established under section 110(c) of such Act;

(B) any centers of mental illness research, education, and clinical activities that may be established at Department medical centers; and

(C) other Department research facilities; and

(4) the operation of the National Center on Post-Traumatic Stress Disorder.

#### SEC. 109. SELECTION OF LOCATIONS FOR NEW POST-TRAUMATIC STRESS DISORDER TREATMENT UNITS.

(a) ACCESSIBILITY OF PTSD TREATMENT UNITS TO VETERANS IN RURAL AREAS.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

##### "§ 8117. Locations of PTSD treatment units"

"The Secretary shall to the extent practicable ensure that there are Department post-traumatic stress disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States."

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 8116 the following new item:

"8117. Locations of PTSD treatment units."

(b) IMPLEMENTATION.—In determining where to locate post-traumatic stress disorder units which may be established after

the date of the enactment of this Act, the Secretary of Veterans Affairs shall give strong consideration to locations referred to in section 8117 of title 38, United States Code, as added by subsection (a)(1).

**PART B—MENTAL ILLNESS RESEARCH AND EDUCATION**

**SEC. 121. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.**

(a) IN GENERAL.—Subchapter II of chapter 73 is amended—

(1) by redesignating sections 7316 and 7317 as sections 7317 and 7318, respectively; and

(2) by inserting after section 7315 the following new section 7316:

**"§ 7316. Mental illness research, education, and clinical centers**

"(a) The purposes of this section are to facilitate the improvement of health-care services for eligible veterans suffering from mental illness, especially service-related conditions, through research, the education and training of health personnel, and the development of improved models for the furnishing of clinical services.

"(b)(1) In order to carry out the purposes of this section, the Secretary, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five health-care facilities of the Department as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this section.

"(2) The Secretary shall designate at least one facility under paragraph (1) not later than January 1, 1993.

"(3) In designating facilities as the locations for centers under paragraph (1), the Secretary, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(4) The Secretary may not designate any health-care facility as a location for a center under paragraph (1) unless the Secretary, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(A) with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated, an arrangement under which residents receive education and training in psychiatry through regular rotation through such facility so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(B) with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated, an arrangement under which students receive education and training in clinical or counseling psychology or both through regular rotation through such facility so as to provide such students with training in the diagnosis and treatment of mental illness;

"(C) an arrangement under which nursing, social work, or other allied health personnel receive training and education in mental health care through regular rotation through such facility;

"(D) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(E) a policymaking advisory committee composed of appropriate mental health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(F) the capability to conduct effectively evaluations of the activities of such center.

"(c) Activities of clinical and scientific investigation at each center shall be eligible to compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for mental illness.

"(d) There are authorized to be appropriated for the basic support of the research and education and training activities of the centers established pursuant to subsection (b)(1), \$3,125,000 for fiscal year 1993 and \$6,250,000 for each of the three subsequent fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Department of Veterans Affairs medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(e) The Chief Medical Director shall ensure that research activities carried out through centers established under subsection (b)(1) include an appropriate emphasis on the psychosocial dimension of mental illness and on proposals of means of furnishing care and treatment to veterans suffering from mental illness.

"(f) The Chief Medical Director shall ensure that useful information produced by the research, education and training, and clinical activities of the centers established under subsection (b)(1) is disseminated throughout the Veterans Health Administration through the development of programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title and other means.

"(g) The official within the Central Office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for the supervision of the operation of the centers established pursuant to subsection (b)(1)."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the items relating to sections 7316 and 7317 and inserting in lieu thereof the following:

"7316. Mental illness research, education, and clinical centers.

"7317. Malpractice and negligence suits: defense by United States.

"7318. Hazardous research projects: indemnification of contractors."

(c) REPORTS.—Not later than February 1 of each of 1993, 1994, and 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience during the prior fiscal year under the centers established pursuant to section 7316 of title 38, United States Code (as added by subsection (a)). Each such report shall contain the following:

(1) A description of—

(A) the activities carried out at each center and the funding provided for such activities;

(B) the advances made at each center in research, education and training, and clinical

activities relating to mental illness in veterans; and

(C) the efforts made by the Chief Medical Director of the Department of Veterans Affairs pursuant to subsection (e) of such section (as so added) to disseminate throughout the Veterans Health Administration useful information derived from such activities.

(2) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

**PART C—PROGRAM OF MARRIAGE AND FAMILY COUNSELING FOR CERTAIN VETERANS**

**SEC. 131. PROGRAM FOR FURNISHING MARRIAGE AND FAMILY COUNSELING.**

(a) REQUIREMENT.—Subject, in fiscal years 1993 and 1994, to the availability of funds appropriated pursuant to the authorization in section 133 of this Act, the Secretary of Veterans Affairs shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The Secretary shall commence the program not later than 30 days after the date of the enactment of this Act. The authority to conduct the program shall expire at the end of September 30, 1994.

(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses, children, and parents of such veterans; and

(2) members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses, children, and parents of such members.

(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary) is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) MANNER OF FURNISHING SERVICES.—(1) The Secretary shall furnish the marriage and family counseling services under the program as follows:

(A) By personnel of the Department of Veterans Affairs who are qualified to provide such counseling services.

(B) By appropriately certified marriage and family counselors employed by the Department.

(C) By qualified mental health professionals pursuant to contracts with the Department.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ counselors to provide marriage and family counseling under paragraph (1)(B) and shall pay such counselors at the rates prevailing for such counseling among non-Department health-care professionals with similar training, experience, and certification in the locality in which such counselors provide such counseling, as determined by the Secretary.

(e) **CONTRACT COUNSELING SERVICES.**—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the plan and assessment made under subsection (a) are approved by an appropriate mental health professional of the Department designated for that purpose by the Chief Medical Director.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) **COST RECOVERY.**—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

#### SEC. 132. DEFINITIONS.

For the purposes of this part, the terms "veteran", "child", "parent", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in section 101(2), (4), (5), (21), (27), (31), and (33) of title 38, United States Code, respectively.

#### SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$10,000,000 for each of fiscal years 1993 and 1994 to carry out this part.

#### SEC. 134. REPORTS.

(a) **INTERIM REPORT.**—Not later than April 1, 1993, the Secretary shall submit to Congress a report on the program conducted pursuant to section 131 of this Act. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in section 131(b) of this Act;

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(b) **FINAL REPORT.**—Not later than January 1, 1994, the Secretary shall submit to Congress a report on the program. The report shall contain updates of the information referred to in subsection (a) and a description and evaluation of the program and shall include such recommendations with respect to the program as the Secretary considers appropriate.

### TITLE II—GENERAL HEALTH CARE

#### PART A—GENERAL HEALTH

#### SEC. 201. ELIGIBILITY FOR PROSTHETIC DEVICES AND CERTAIN OTHER MEDICAL ITEMS.

(a) **IN GENERAL.**—Section 1701(6)(A)(i) is amended by striking out "(except under the conditions described in section 1712(f)(1)(A)(i) of this title)".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date on which the Secretary of Veterans Affairs submits to the Committees on Veterans' Affairs of the Senate and House of Representatives copies of the Secretary's written determination that implementation of that amendment will not result in (1) substantial delay, or contribute substantially to delays, in the furnishing of prosthetic items in connection with the treatment of disabilities that are service connected (within the meaning of that term provided in section 101(16) of title 38, United States Code), or (2) the denial of such items in connection with the treatment of such disabilities.

#### SEC. 202. INCREASE IN MAXIMUM LIMITATIONS ON HOME HEALTH SERVICES.

Section 1717(a)(2) is amended—

(1) in subparagraph (A), by striking out "\$2,500" and inserting in lieu thereof "\$5,000"; and

(2) in subparagraph (B), by striking out "\$600" and inserting in lieu thereof "\$1,200".

#### SEC. 203. EXPANDED SERVICES FOR HOMELESS VETERANS.

(a) **ASSESSMENT AND PLAN.**—(1)(A) The Secretary of Veterans Affairs shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the director of the medical center concerned or the region of the director of the region concerned, as the case may be.

(B) Each assessment shall identify the needs of homeless veterans with respect to the following areas:

- (i) Health care.
- (ii) Education and training.
- (iii) Employment.
- (iv) Shelter.
- (v) Counseling.
- (vi) Outreach services.

(C) Each assessment shall also indicate the extent to which the needs referred to in clauses (i) through (vi) of subparagraph (B) are being met adequately by the programs of the Department of Veterans Affairs, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(D) Each assessment shall be made in consultation with all facilities of the Department of Veterans Affairs serving veterans in the appropriate service area and with community-based organizations that have experience working with homeless persons in that area.

(E) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(2)(A) The director of each medical center shall develop a plan for each of fiscal years 1993, 1994, and 1995 for the provision of outreach services and other services to meet the needs that are identified in the assessment referred to in paragraph (1)(B) on the part of homeless veterans in the area served by the medical center concerned. The director of each medical center shall develop such plans in consultation with the director of the appropriate regional benefits office, the heads of other facilities of the Department of Veterans Affairs, and the Director for Veterans' Employment and Training within the State concerned.

(B) Each plan developed pursuant to subparagraph (A) shall—

(i) describe the actions to be taken by the Department of Veterans Affairs to meet, directly or otherwise, those needs of homeless veterans that are identified in the assessment referred to in paragraph (1) as not being adequately met by existing programs; and

(ii) provide that the director of the medical center concerned or other official of the Department of Veterans Affairs will take appropriate action to meet those needs, to the maximum extent practicable, through existing programs and available resources.

(C) The director of each medical center shall coordinate the development of the plan for the area served by the medical center concerned with other programs of the Department of Veterans Affairs, other departments and agencies of the Federal Government, State and local governments, and community-based organizations and other private entities that provide services to homeless persons.

(D) Each plan shall include a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned and shall describe the services offered by those programs.

(3) The director of each medical center shall be responsible for carrying out the plan developed with respect to the area served by that medical center. In carrying out such plan, the director shall take appropriate actions to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless (as determined by the director), of the services available to the veteran within the area served by the medical center.

(4) The director of each medical center shall disseminate to other departments and agencies of the Federal Government, all State and local governments, and all private entities that provide services to homeless persons or homeless veterans within the area served by the medical center information regarding the services provided to homeless veterans by the medical center or other facility of the Department of Veterans Affairs.

(b) **PILOT PROGRAM FOR PROVIDING DOMICILIARY CARE FOR HOMELESS VETERANS.**—(1) The Secretary shall conduct a pilot program to determine the effectiveness of providing, through existing community-based organizations, domiciliary care (including medical services) to homeless veterans eligible for such care from the Department of Veterans Affairs under other provisions of law. In carrying out the program, the Secretary may enter into contracts with community-based organizations that have demonstrated effectiveness in providing relevant services to homeless persons. The Secretary shall conduct the program at not more than 15 locations throughout the United States.

(2) In entering into contracts under this section, the Secretary shall give preference to community-based organizations that offer the most comprehensive care and services to homeless individuals, particularly services that meet needs identified in the assessments referred to in subsection (a)(1) as not being adequately met by existing programs.

(3) There is authorized to be appropriated to carry out this subsection \$1,500,000 for each of fiscal years 1992, 1993, 1994, and 1995.

(4) If the Secretary determines that the pilot program conducted pursuant to paragraph (1) is meeting effectively the domiciliary care needs of homeless veterans and that additional funds are needed for that program, the Secretary may transfer funds appropriated to carry out section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257), as amended by subsection (e), to the account available to carry out the pilot program provided for in this subsection, except that no amount may be transferred in any fiscal year that would reduce the amount available for expenditure under such section 801 below an amount equal to the amount expended under that section in the preceding fiscal year. Funds transferred under this paragraph shall be available for the same period for which originally appropriated.

(c) **AUTHORITY TO ACCEPT DONATIONS FOR CERTAIN PROGRAMS.**—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

(d) **DEFINITIONS.**—As used in subsections (a), (b), and (c):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the same meaning given such term by section 101(2) of title 38, United States Code.

(4) The term "homeless" has the same meaning given such term by section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 485).

(e) **EXTENSION OF CERTAIN PROGRAMS FOR HOMELESS VETERANS.**—(1) Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is hereby authorized to be appropriated to the Department of Veterans Affairs \$30,000,000 for each of the fiscal years 1989 and 1990; \$50,000,000 for fiscal year 1991; \$57,500,000 for fiscal year 1992; and \$65,000,000 for fiscal year 1993. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for such fiscal years."

(B) in subsection (b)—

(i) by inserting "(1)" after "DOMICILIARY CARE.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)";

(iii) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(iv) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, \$15,000,000.

"(B) For fiscal year 1990, \$15,000,000.

"(C) For fiscal year 1991, \$20,000,000.

"(D) For fiscal year 1992, \$22,500,000.

"(E) For fiscal year 1993, \$25,000,000." and

(C) in subsection (c)—

(i) by inserting "(1)" after "HOMELESS VETERANS.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)"; and

(iii) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, \$15,000,000.

"(B) For fiscal year 1990, \$15,000,000.

"(C) For fiscal year 1991, \$30,000,000.

"(D) For fiscal year 1992, \$35,000,000.

"(E) For fiscal year 1993, \$40,000,000."

(2) **EXTENSION OF PROGRAM FOR MENTALLY ILL HOMELESS VETERANS.**—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(f) **REPORT.**—Not later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees on Veterans Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a), (b), and (c).

#### SEC. 204. EXTENSION OF PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

Section 113(b) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended—

(1) by striking out "and 1990" and inserting in lieu thereof a comma and "1990, 1991, 1992, and 1993"; and

(2) by adding at the end the following new sentence: "Funds appropriated to carry out the pilot program authorized by this section shall remain available until expended."

#### SEC. 205. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) **ESTABLISHING OF ADVISORY COMMITTEE.**—Chapter 5 is amended by adding at the end of subchapter III the following new section:

##### "§ 543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Secretary and shall include—

"(A) appropriate representatives of veterans who use prosthetic devices;

"(B) individuals who are recognized experts in the fields of prosthetics engineering;

"(C) individuals engaged in prosthetics research;

"(D) individuals engaged in rehabilitative medicine;

"(E) individuals engaged in the clinical treatment of individuals who are users of prosthetic devices;

"(F) individuals engaged in clinical treatment in the Department's special-disabilities programs; and

"(G) such other individuals with pertinent expertise or experience as the Secretary may determine appropriate.

"(3) The Committee may also include, as ex officio members, individuals appointed from the Department.

"(4) The Secretary shall determine the total number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that the term of office of any such member may not exceed three years.

"(b)(1) It shall be the function of the Committee to advise the Secretary and the Chief Medical Director on all matters related to—

"(A) prosthetics and special-disabilities programs administered by the Secretary;

"(B) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(C) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(D) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(2) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in paragraph (1) of this subsection.

"(c) Not later than June 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 30 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(d) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for spinal-cord-injured veterans, blind veterans, veterans who have lost or lost the use of extremities, hearing-impaired veterans, and other veterans with serious incapacities in terms of daily life functions."

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 5 is

amended by adding after the item relating to section 542 the following:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs."

**SEC. 206. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.**

(a) DEFINITION OF "MEDICAL SERVICES".—Clause (A) of section 1701(6), as amended by section 201 of this Act, is further amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse when such services are necessary to overcome a service-connected disability impairing a veteran's procreative ability (but only if such services are furnished by contract, except for services which the Chief Medical Director determines that Department of Veterans Affairs facilities are fully capable of furnishing in a cost-effective manner), (iii) dental services and appliances as described in sections 1710 and 1712 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 1762 of this title, (vi) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and"

(b) ADVISORY COMMITTEE.—The Chief Medical Director of the Department of Veterans Affairs shall appoint an advisory committee to advise the Chief Medical Director on the exercise of authority to furnish services described in subclause (ii) of section 1701(6)(A) of title 38, United States Code, as added by subsection (a). Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

**SEC. 207. PREVENTIVE MEDICINE.**

(a) EXTENSION OF PILOT PROGRAM.—Section 1763(a)(1) is amended to read as follows:

"(a)(1) In order to carry out the purpose of this subchapter, the Secretary shall, through fiscal year 1996—

"(A) furnish annually at least two preventive health-care services that the Secretary determines to be feasible and appropriate to any veteran being furnished care or services under section 1710(a)(1) or 1712(a)(1) or (2) of this title; and

"(B) implement annually at each Department of Veterans Affairs health-care facility a major preventive health-care and health-promotion initiative for such veterans."

(b) LIMIT ON EXPENDITURES.—Section 1763(c) is amended—

(1) by striking out "or" after "1983,"; and

(2) by striking out the period at the end and inserting in lieu thereof "more than \$16,000,000 in fiscal year 1992, more than \$17,000,000 in fiscal year 1993, more than \$18,000,000 in fiscal year 1994, more than \$19,000,000 in fiscal year 1995, or more than \$20,000,000 in fiscal year 1996."

(c) DIRECTOR OF PREVENTIVE HEALTH-CARE AND HEALTH-PROMOTION PROGRAMS.—Section 1763 is amended by adding at the end the following new subsection:

"(d)(1) The Chief Medical Director shall designate an official in the Veterans Health Administration to act as the Director of Preventive Health-Care and Health-Promotion Programs.

"(2) The Director of Preventive Health-Care and Health-Promotion Programs shall prepare guidance regarding, and be responsible for coordinating, evaluating, and advising the Chief Medical Director on, all activities carried out under this subchapter."

(d) REPORTS.—Section 1764 is amended to read as follows:

"(a) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

"(1) not later than February 1, 1994, an interim report on the experience under the program provided for by this subchapter; and

"(2) not later than February 1, 1996, a final report on the experience under the program."

"(b) Each report submitted pursuant to subsection (a) of this section shall include, with respect to the experience under the program through September 30 of the year preceding the deadline for submission of such report specified in subsection (a)—

"(1) a description of the types of services that have been furnished pursuant to section 1763(a)(1)(A) of this title and the number of veterans who received such services;

"(2) a description of the preventive health-care and health-promotion initiatives that were implemented pursuant to section 1763(a)(1)(B) of this title and the number of veterans who have been served through such initiatives;

"(3) a description of the types of preventive health-care services that have been furnished pursuant to sections 1710 and 1712 of this title and the number of veterans who received such services;

"(4) a description of activities conducted pursuant to section 1763(a)(2) of this title;

"(5) an assessment of the results of the program; and

"(6) any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate."

(e) CONFORMING AND CLARIFYING AMENDMENTS.—(1) Section 1761(1) is amended by striking out "including veterans with service-connected disabilities" and all that follows through "disability under this chapter."

(2) Clauses (1) and (2) of section 1762 are amended to read as follows:

"(1) periodic medical examinations (including screenings for high blood pressure, glaucoma, colorectal cancer, and cholesterol) and dental examinations;

"(2) patient health education (including education about nutrition, stress management, physical fitness, and smoking cessation)";

**SEC. 208. ASSISTIVE DOGS FOR CERTAIN DISABLED VETERANS.**

(a) AUTHORITY TO PROVIDE ASSISTIVE DOGS.—Section 1714 is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide—

"(A) a service dog to a quadriplegic veteran who has a service-connected disability; and

"(B) a signal dog to a veteran who has a service-connected hearing impairment and is in need of the assistance of such a dog."

"(2) The Secretary may pay travel and incidental expenses to veterans referred to in paragraph (1), under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are incurred in becoming adjusted to the service dogs and signal dogs referred to in such paragraph.

"(3) For the purposes of this subsection:

"(A) The term 'service dog' means a dog trained to assist quadriplegic individuals in the performance of daily living tasks.

"(B) The term 'signal dog' means a dog trained to provide hearing assistance to deaf persons."

(b) TECHNICAL CORRECTIONS.—Section 1714(b) is amended by striking out "(under the terms and conditions set forth in section 111 of this title) to and from their homes and" and inserting in lieu thereof "under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are".

**SEC. 209. PROSTHETIC SERVICES REPORT.**

Not later than July 15, 1992, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 1712(1) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions; and

(B) the accumulation of a significant backlog in the procurement of prosthetic appliances.

**SEC. 210. REPEAL OF AUTHORITY TO FURNISH TOBACCO TO VETERANS RECEIVING HOSPITAL OR DOMICILIARY CARE.**

(a) IN GENERAL.—Section 1715 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by striking out the item relating to section 1715.

**SEC. 211. DEVELOPMENT OF RECOMMENDED LEGISLATION FOR THE ELIMINATION OF INCONSISTENCIES IN CERTAIN VETERANS BENEFITS LAWS.**

(a) REQUIREMENT TO ESTABLISH TASK FORCE.—The Secretary of Veterans Affairs shall establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions of law relating to veterans' eligibility for certain health-care benefits.

(b) COMPOSITION OF TASK FORCE.—The task force shall be composed of the following:

(1) Employees of the Department of Veterans Affairs involved in the administration of programs affected by the inconsistencies in law referred to in subsection (a).

(2) Representatives of organizations concerned with the administration of such programs, as determined by the Secretary.

(c) RESPONSIBILITIES OF TASK FORCE.—The task force shall—

(1) identify inconsistencies among sections 1701(6), 1712, 1714, 1717, and 1719 of title 38, United States Code, and the implementation of such sections;

(2) after consultation with appropriate representatives of veterans, develop policy recommendations and legislative proposals for the elimination of any such inconsistencies; and

(3) not later than the date specified by the Secretary, submit to the Secretary a report containing (A) descriptions of the inconsistencies identified by the task force, (B) the policies and legislative proposals recommended by the task force for the elimination of such inconsistencies, and (C) the reasons for each such recommendation.

(d) ACTION BY THE SECRETARY.—The Secretary shall—

(1) review the report submitted by the task force; and

(2) either (A) approve the recommendations for legislation contained in the report, or (B) with respect to any such recommendations that the Secretary does not approve, recommend, or decline to recommend, alternative legislative proposals that the Secretary considers appropriate for the elimination of the inconsistencies identified by the task force.

(e) **SUBMISSION OF RECOMMENDATIONS TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(1) the report submitted to the Secretary by the task force; and

(2) a report containing—

(A) any legislation recommended by the Secretary for the elimination of the inconsistencies identified by the task force;

(B) an analysis of any legislation recommended by the Secretary; and

(C) the reasons for any differences between any legislation recommended by the Secretary and the legislation recommended by the task force.

**SEC. 212. ELIGIBILITY OF FORMER PRISONERS OF WAR FOR OUTPATIENT MEDICAL SERVICES.**

Section 1712(a)(1) is amended—

(1) at the end of clause (B), by striking out "and";

(2) at the end of clause (C), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(D) to any former prisoner of war for any disability."

**SEC. 213. PILOT PROGRAM FOR FURNISHING ASSISTIVE MONKEYS TO CERTAIN VETERANS.**

(a) **REQUIREMENT FOR PILOT PROGRAM.**—During fiscal years 1992, 1993, 1994, and 1995, the Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary shall—

(1) furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated 50 percent or more; and

(2) facilitate the furnishing of assistive monkeys to other quadriplegic veterans.

(b) **SELECTION OF VETERAN-PARTICIPANTS.**—

(1) In determining whether to furnish an assistive monkey to a veteran, or to facilitate the furnishing of an assistive monkey to a veteran, under the pilot program, the Secretary shall (A) consider the extent to which the veteran needs and can benefit from the assistance of the monkey, and (B) provide a preference for veterans who have service-connected quadriplegia.

(2) The Secretary shall approve a veteran for participation in the pilot program only upon the Secretary's determination that the veteran is well-suited for—

(A) carrying out the responsibilities involved in the care of the monkey; and

(B) effectively using the monkey for assistance in performing the veteran's daily living tasks.

(c) **ADMINISTRATIVE MATTERS.**—(1) The Secretary is authorized to enter into contracts for the furnishing of assistive monkeys under subsection (a). Under such contracts the Secretary may make advance payments for the furnishing of the monkeys before receipt of the monkeys and may either reimburse the provider of such monkeys for the costs of training the monkeys or, subject to such terms and conditions as the Secretary

determines are necessary to protect the interests of the Government, make advance payments for such costs before the costs are incurred.

(2) Ownership of an assistive monkey furnished to a veteran under the pilot program shall be determined in accordance with a contract between the provider of the monkey and the veteran.

(3) The Secretary shall provide for the protection of the welfare of assistive monkeys furnished veterans under the pilot program.

(d) **EVALUATION AND REPORT.**—(1) The Secretary shall evaluate the conduct of the pilot program, the nature and extent of the benefit to veterans furnished assistive monkeys under the program (including any benefits related to employment), the costs and cost-effectiveness of furnishing such monkeys to quadriplegic veterans, and the effects of such program on the recruitment and retention of paid primary caregivers for veterans receiving monkeys and on the morale of unpaid primary caregivers for such veterans.

(2) Not later than February 1, 1995, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program. The report shall contain—

(A) the results of the evaluation carried out under paragraph (1), including descriptions of the procedures and criteria used to select veterans to receive assistive monkeys, the nature and extent of the benefit that the veterans received from the assistance of such monkeys, and the amounts and types of costs incurred by the Department of Veterans Affairs in the conduct of the program;

(B) the Secretary's views on the relationship between the furnishing of an assistive monkey to a veteran and the payment to a veteran of (i) an aid and attendance allowance under section 1114(r) of title 38, United States Code, or (ii) an annual rate of pension under section 1521 of such title based on the veteran's need of regular aid and attendance; and

(C) any recommendations that the Secretary considers appropriate regarding whether the pilot program should be continued or whether the authority to furnish assistive monkeys to quadriplegic veterans should be made permanent.

(e) **EVALUATION OF PRIVATE ASSISTIVE MONKEY PLACEMENT PROGRAMS.**—Before furnishing assistive monkeys to veterans under the pilot program, the Chief Medical Director of the Department of Veterans Affairs shall provide for the conduct of an independent evaluation of the way that assistive monkeys would be treated during training and placement under the pilot program. The Chief Medical Director shall ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to conducting the evaluation.

(f) **DEFINITIONS.**—For the purposes of this section—

(1) the terms "veterans" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code; and

(2) the term "assistive monkey" means a monkey that is specially trained to assist in the performance of daily living tasks for quadriplegic individuals.

**PART B—HEALTH-CARE PERSONNEL**

**SEC. 221. PAY ENHANCEMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.**

Section 7454(b) is amended by striking out "or occupational therapists," and inserting

in lieu thereof "occupational therapists, or any other health-care personnel furnishing direct care to patients or providing services incident to the furnishing of direct care to patients."

**SEC. 222. SPECIAL RATES CAP.**

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by inserting at the end the following new paragraph:

"(2) Whenever the amount of an increase under subsection (a)(1) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof."

**SEC. 223. RATES OF PAY FOR CERTAIN PSYCHOLOGISTS.**

Notwithstanding any other provision of law, the Secretary of Veterans Affairs, not later than 90 days after the date of the enactment of this Act, shall utilize the authority provided in section 7455 of title 38, United States Code, to increase the rates of pay for clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accredited authority recognized by the Secretary unless the Chief Medical Director of the Department of Veterans Affairs determines that such psychologists are not needed to furnish appropriate quality of psychological services for veterans. The amount by which such rate of pay shall be increased shall be the amount determined by the Secretary, upon the recommendation of the Chief Medical Director, to be necessary to make the pay for such psychologists competitive with the pay of psychologists with the same qualifications and credentials serving in non-Department of Veterans Affairs capacities comparable to the Department capacities in which the Department psychologists are serving.

**SEC. 224. CHILD-CARE SERVICES.**

(a) **ASSESSMENTS OF EMPLOYEE NEEDS FOR CHILD-CARE SERVICES.**—(1) In order to provide for adequate planning for the availability of child-care services for children of Department of Veterans Affairs employees, the Secretary of Veterans Affairs shall require the director of each Department of Veterans Affairs medical center and regional office to—

(A) assess the needs of such employees for child-care services; and

(B) submit an annual report to the Secretary containing—

(i) the director's findings relating to the needs of such employees for such services and the extent to which such services are available to meet such needs, and

(ii) a proposal (including a schedule) for meeting fully any unmet needs or, if the director determines that it is impracticable to meet such needs fully, a detailed explanation of the reasons for such determination and a proposal (including a schedule) for meeting as many of such needs as is practicable.

(2) In making the assessment referred to in paragraph (1), the director shall consult with appropriate representatives of the employees at the center or office.

(3) The annual report referred to in this subsection shall be submitted not later than March 1 of each year.

(b) **TECHNICAL AMENDMENT.**—Subsection (b) of section 7809 is amended by striking out "of this section" in the final sentence.

**SEC. 225. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.**

(a) **FULL-TIME PHYSICIANS AND DENTISTS.**—Section 7437(e)(1)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification."

(b) **PART-TIME PHYSICIANS AND DENTISTS.**—Section 7437(e)(2)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102-40; 105 Stat. 187).

(d) **AVAILABILITY OF FUNDS.**—Expenses incurred for periods before October 1, 1991, by reason of the enactment of the amendments made by subsections (a) and (b) may be charged to fiscal year 1992 appropriations for the same purpose.

**SEC. 226. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE CHIEF MEDICAL DIRECTOR.**

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Chief Medical Director for the operation of their respective services."

**SEC. 227. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.**

Section 7404(b)(2) is amended in the first sentence by inserting "or comparable position" before the period.

**TITLE III—MINORITY AFFAIRS**

**SEC. 301. REESTABLISHMENT OF THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.**

(a) **ESTABLISHMENT.**—Effective June 1, 1992, the Advisory Committee on Native-American Veterans established by section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388) is reestablished.

(b) **INCORPORATION OF PROVISIONS OF PRIOR LAW.**—Subsections (b) through (e) and (g) of section 19032 of the Veterans' Health-Care Amendments of 1986 shall apply to the Advisory Committee on Native-American Veterans reestablished by subsection (a).

(c) **REPORTS.**—(1) Not later than December 31, 1992, and December 31, 1993, the Committee shall submit to the Secretary of Veterans Affairs a report containing the findings and any recommendations of the Committee regarding the matters described in section 19032(b) of the Veterans' Health-Care Amendments of 1986 that were examined and evaluated by the Committee during the fiscal year preceding the fiscal year in which the report is submitted.

(2) Not later than 60 days after receiving each such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(d) **TERMINATION.**—The Committee shall expire 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (c).

**TITLE IV—MISCELLANEOUS**

**SEC. 401. CLARIFICATION OF PROHIBITION ON PAYMENT OF ATTORNEYS' FEES.**

(a) **IN GENERAL.**—Section 5904(c) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by redesignating paragraph (2) as subparagraph (B);

(3) in subparagraph (B) (as so redesignated), by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)"; and

(4) by adding at the end the following new paragraph:

"(2) The provisions of this subsection shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department, and such provisions shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply."

(b) **APPLICATION OF PROHIBITION.**—Section 3404(c) of title 38, United States Code, as in effect on November 17, 1988, shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department and shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply.

**SEC. 402. AUTHORIZATION TO FLY POW/MIA FLAG AT NATIONAL CEMETERIES OF THE UNITED STATES.**

(a) **AUTHORIZATION.**—The director of each national cemetery is authorized to display a POW/MIA flag on a flagstaff at that cemetery. In determining whether to display a POW/MIA flag at the cemetery, the director is authorized and urged to consult with appropriate representatives of local civic and veterans' organizations having an interest in the activities of the cemetery.

(b) **PROHIBITION.**—No officer or other employee of the Federal Government may obligate appropriated funds for the purpose of purchasing a POW/MIA flag for display at a national cemetery.

(c) **DEFINITIONS.**—In this section:

(1) The term "national cemetery" means any cemetery in the National Cemetery System referred to in section 1000 of title 38, United States Code.

(2) The term "POW/MIA flag" means the flag designated as the National League of Families POW/MIA flag pursuant to section 2 of the Joint Resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag (Public Law 101-355; 104 Stat. 416).

(3) The term "flagstaff" means any flagstaff at a national cemetery, including the main flagstaff of the cemetery.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**ARMS CARGO OF THE MERCHANT SHIP DAE HUNG HO**

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Foreign

Relations Committee be discharged from further consideration of Senate Resolution 266, a resolution concerning the arms cargo of the North Korean merchant ship, Dae Hung Ho, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title. The legislative clerk read as follows:

A resolution (S. Res. 266) expressing the sense of the Senate concerning the arms cargo of the North Korean merchant ship Dae Hung Ho.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution and preamble is agreed to.

So the resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

**S. RES. 266**

Whereas Israel is the leading democracy in the Middle East, is America's closest strategic ally in the region, and is a principal participant in the Middle East Peace Conference;

Whereas Israel's security is a major concern to the Senate as it seeks to influence the debate on United States foreign policy in the Middle East;

Whereas in the post-Cold War era, the central element in United States relations with other countries must be an effort to stem the sale of advanced weapons technology to aggressor nations;

Whereas without secure borders for Israel, peace in the Middle East is impossible, and Israel's borders are not secure in an era of weapons proliferation;

Whereas Syria is on the Secretary of State's list of countries that sponsor terrorism;

Whereas the regime of Hafez Al Assad is undemocratic and brutal and has continued to support elements of the Palestinian community most opposed to Secretary Baker's current peace initiative;

Whereas Syria ordered \$5.6 billion of new arms between 1987 and 1990 and received delivery of \$14.5 billion during the same period;

Whereas Syria has purchased North Korean missiles, components, and arms-related technology since the end of the Persian Gulf War; and

Whereas the North Korean merchant ship Dae Hung Ho is about to deliver \$100,000,000 worth of SCUD-C missiles and missile-related technology to Syria; Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the President, the member countries of the Missile Technology Control Regime (MTCR), the participants of the Middle East Peace Conference, and the international community in general should use the international sanction of condemnation to prevent the delivery of SCUD missiles and missile-related technology to Syria by the North Korean merchant ship Dae Hung Ho; and

(2) out of respect for Israel's security, Syria should demonstrate its desire for peace and acceptance of Israel's right to exist by terminating its agreement with North Korea for delivery of the cargo of Dae Hung Ho.

SEC. 2. For purposes of this resolution, the term "Missile Technology Control Regime" or "MTCR" means the policy statement among the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### VETO MESSAGE ON H.R. 2212

The PRESIDING OFFICER. The Senate having received the veto message from the House on H.R. 2212, an act regarding the extension of most-favored-nation treatment for the People's Republic of China, under the previous order, the message is considered read and will be spread upon the Journal; as follows:

*To the House of Representatives:*

I am returning herewith without any approval H.R. 2212, the "United States-China Act of 1991," which places additional conditions on renewal of China's most-favored-nation (MFN) trade status.

The sponsors of H.R. 2212 believe they can promote broad economic and foreign policy objectives in China by placing conditions on the renewal of China's MFN status. They expect that the Chinese will improve respect for human rights, cooperate in arms control, and drop barriers to trade, given a choice between losing MFN and addressing these concerns.

Let me state at the outset that my Administration shares the goals and objectives of H.R. 2212. Upholding the sanctity of human rights, controlling the spread of weapons of mass destruction, and free and fair trade are issues of vital concern. My objective lies strictly with the methods proposed to achieve these aims.

There is no doubt in my mind that if we present China's leaders with an ultimatum on MFN, the result will be weakened ties to the West and further repression. The end result will not be progress on human rights, arms control, or trade. Anyone familiar with recent Chinese history can attest that the most brutal and protracted periods of repression took place precisely when China turned inward, against the world.

Recent agreements by the Chinese to protect U.S. intellectual property rights, to abide by the Missile Technology Control Regime Guidelines, to accede to the Nuclear Non-Proliferation Treaty by April, and to discuss our human rights concern—after years of stonewalling—are the clear achieve-

ments of my Administration's policy of comprehensive engagement.

We have the policy tools at hand to deal with our concerns effectively and with realistic chances for success. The Administration's comprehensive policy of engagement on several separate fronts invites China's leadership to act responsibly without leaving any doubts about the consequences of Chinese misdeeds. Our approach is one of targeting specific areas of concern with the appropriate policy instruments to produce the required results. H.R. 2212 would severely handicap U.S. business in China, penalizing American workers and eliminating jobs in this country. Conditional MFN status would severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong, and strengthen opposition to democracy and economic reform.

We are making a difference in China by remaining engaged. Because the Congress has attached conditions to China's MFN renewal that will jeopardize this policy, I am returning H.R. 2212 to the House of Representatives without any approval. Such action is needed to protect the economic and foreign policy interests of the United States.

GEORGE BUSH.

THE WHITE HOUSE, March 2, 1992.

#### MESSAGES FROM THE HOUSE

At 5:55 p.m., a message from the House of Representatives, delivered by Mrs. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, each without amendment.

S. 2324. An act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes;

S.J. Res. 176. A joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; and

S.J. Res. 240. A joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

The message also announced that the House of Representatives having proceeded to reconsider the bill (H.R. 2212) entitled "An Act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved, that the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The message further announced that pursuant to section 5005(d)(1)(C) of Public Law 102-240, the minority leader appoints the following individuals from private life to serve as members of the National Commission on Intermodal Transportation on the part of the House: Mr. Kenneth Bird of Woodridge, IL, and Dr. John C. Taylor of Mason, MI.

#### ENROLLED BILLS SIGNED

The message further announced that the Speaker had signed the following enrolled bills:

S. 1467. An act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse"; and  
S. 1889. An act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the "Ewing T. Kerr Federal Building and United States Courthouse."

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 654. A bill to amend title 35, United States Code, with respect to patents on certain processes (Rept. No. 102-260).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. JEFFORDS, Mr. DODD, Mr. LEAHY, Mr. KENNEDY, and Mr. KERRY):

S. 2335. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself and Mr. RIEGLE):

S. 2336. A bill to establish a loan program at the Department of Commerce to promote the development and commercialization of advanced technologies and products; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. 2337. A bill to provide for the budgetary treatment of medicare payment safeguard activities, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. PELL (by request):

S. 2338. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

By Mr. DODD:

S. 2339. A bill to establish a program to provide child care through public-private partnerships, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself, Mr. MCCAIN, and Mr. SPECTER):

S. 2340. A bill to require the transfer of certain closed military installations to the De-

partment of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. D'AMATO, Mr. SARBANES, Mr. KERRY, Mr. LIEBERMAN, and Mr. AKAKA):

S. 2341. A bill to provide for the assessment and reduction of lead-based paint hazards in housing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE:

S. 2342. A bill to amend the act entitled "An act to provide for the disposition of funds appropriated to pay judgement in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes", approved October 25, 1972 (86 Stat. 1168 et seq.); to the Select Committee on Indian Affairs.

By Mr. DODD:

S. 2343. A bill to provide for demonstration projects in 6 States to establish or improve a system of assured minimum child support payments; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. AKAKA):

S. 2344. A bill to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes; considered and passed.

By Mr. GARN:

S.J. Res. 268. A joint resolution designating May 1992, as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 269. A joint resolution designating May 31, 1992, through June 6, 1992, as a "Week for the National Observance of the 50th Anniversary of World War II"; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI:

S. Res. 270. A resolution concerning the conflict of Nagorno-Karabakh in the territory of Azerbaijan; to the Committee on Foreign Relations.

By Mr. SIMON (for himself, Mr. HELMS, Mr. MITCHELL, Mr. PELL, Mr. MURKOWSKI, Mr. CRANSTON, Mr. MOYNIHAN, Mr. WOFFORD, Mr. KERRY, Mr. KENNEDY, and Mr. WALLOP):

S. Res. 271. A resolution relative to human rights in Tibet; to the Committee on Foreign Relations.

#### STATEMENTS ON INTRODUCED BILLS AND RESOLUTIONS

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. JEFFORDS, Mr. DODD, Mr. LEAHY, Mr. KENNEDY, and Mr. KERRY):

S. 2335. A bill to amend the Solid Waste Disposal Act to require a refund for certain beverage containers, and to provide resources for State pollution

prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### NATIONAL BEVERAGE CONTAINER REFUSE AND RECYCLING ACT OF 1992

Mr. HATFIELD. Mr. President, today I am pleased to introduce the National Beverage Container Refuse and Recycling Act of 1992. Joining me in this effort are Senators PACKWOOD, JEFFORDS, DODD, LEAHY, KENNEDY, and KERRY. This legislation serves as a companion to H.R. 4343, a bill recently introduced in the House by my good friend and colleague, Representative EDWARD MARKEY and 60 additional cosponsors.

Mr. President, I have stood before this body on countless occasions over the last 20 years and explained in great detail the many important benefits of beverage container deposit legislation. In my own State of Oregon, the first to enact a statewide deposit law more than 20 years ago, the benefits continue to accumulate. And just ask any Oregonian and you will soon learn that there has never been a more popular piece of legislation enacted in the State.

Mr. President, this bill is one that eventually will have to be adopted by the Federal Government, even though we have avoided this responsibility for many, many years. Even this morning's newspaper carries an article focused on the subject of waste and landfill shortages and all the problems that relate to the trash and waste created by this Nation. We are a throw-away society. Use it, throw it away. And the idea of recycling, the idea of reuse, is going to be forced upon us either by crises or by plan. I hope it is by plan.

With 10 States now reaping the benefits of this ingenious and time-tested invention, the time has come for Congress to act. The time has come for the industry to put aside its well-financed campaign of avoidance. The time has come for the skeptics to look at the solid record accomplishment that continues to accrue day in and day out in States with deposit laws on the books.

I am sorry to say that industry has fought this every inch of the way. They have well-financed campaigns. It was demonstrated right here in the District of Columbia only a short time ago. I am continually amazed that an idea that has such strong popular support can be overwhelmed and be inundated by the big industry. The shortsighted industry opponents of this legislation are going to have to face up to their responsibilities sooner rather than later.

More than 60 billion beverage containers are discarded each year. This waste represents an unnecessary threat to the environment, an unnecessary loss of recoverable energy, and an unnecessary burden on the Nation's already overburdened landfills. This is a waste and a luxury we can no longer afford.

As my colleagues may recall, I stood on this floor nearly 1 year ago and offered legislation resembling in many respects the legislation we introduce today. One of the central purposes of that effort was to address the fundamental concerns of those in industry who have for two decades fought this legislation at every turn. That bill, Senate bill 1318, is an olive branch to industry, an olive branch that unfortunately has gone without positive gesture or constructive comment. The well-financed industry opposition ignored our olive branch.

Once again, I call on industry to look closely at our earlier legislation as a basis for discussion. However, the time has come to work constructively with those who want to advance—not stall—efforts to promote conservation and the wise stewardship of our resources. Consequently, the legislation we introduce today takes to heart the concerns of those in the environmental community and is less geared to addressing the age old objections of the industry opponents.

I am proud to say that this legislation is solidly supported by a coalition of environmental groups.

I ask unanimous consent to insert in the RECORD a letter from U.S. Public Interest Research Group indicating that the following groups support this legislation: the Natural Resources Defense Council, Environmental Action, the Sierra Club, the Environmental Defense Fund, Greenpeace, Friends of the Earth, the League of Women Voters of America, Public Citizen, and others. Let me thank the groups that have come forward and made deposit legislation one of their top priorities.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. PUBLIC INTEREST RESEARCH GROUP, NATIONAL ASSOCIATION OF STATE PIRGS,

Washington, DC, March 5, 1992.

STATEMENT OF THE UNITED STATES PUBLIC INTEREST RESEARCH GROUP (PIRG) IN SUPPORT OF A NATIONAL BOTTLE BILL.

A priority step for the Congress and the President to take to solve our solid waste crisis is immediate implementation of a national deposit law. Deposits are the only proven mechanism for guaranteeing that consumer products are reintroduced into commerce for reuse and recycling.

A 80-90 percent return rate are achieved through this system, all at no cost to the taxpayer. The system works because it is based on a market relationship between the consumer the retailer and the distributor/manufacturer.

In addition, the Bottle Bill reduces litter significantly which improves overall quality of life.

This is why the Bottle Bill is strongly supported by the Sierra Club, the Environmental Defense Fund, Environmental Action, Greenpeace, the Natural Resources Defense Council, Friends of the Earth, the League of Women Voters of America, Public Citizen, among others.

We applaud Senators Hatfield, Packwood, Jeffords, Kennedy, Leahy and Dodd for tak-

ing the lead on one of the most significant policy proposals to be considered during the reauthorization of the Resource Conservation and Recovery Act. Common sense, popular support and Congressional leadership will ensure this proposal is enacted during the 102nd session.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the letter from the Bicycle Federation of America in support of beverage container deposit legislation be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BICYCLE FEDERATION OF AMERICA,  
Washington, DC, March 11, 1992.

Senator MARK HATFIELD,  
U.S. Senate, Washington DC.

DEAR SENATOR HATFIELD: Congratulations and thanks to you and your colleagues for introducing container deposit legislation in this Congress. Such legislation has been needed—and has made sense—ever since Oregon passed the Nation's first statewide "bottle bill" more than 20 years ago.

There are many good reasons for requiring minimum levels of recycling and waste reduction, and for moving towards a nationwide container deposit law. Bicyclists have long supported such efforts because of the tremendous impact such laws have had on the amount of glass and other debris on highways. Anything which reduces the amount of broken glass or bottles in the street by 80 percent or more is going to be popular with bicyclists!

Indeed, the League of American Wheelmen, a national membership organization for bicyclists, has estimated potential savings to bicyclists of over \$200 million from passage of a container deposit law. Broken glass is a primary cause of punctures, and other debris in the highway can cause cyclists to swerve or to damage their bicycles by riding over it.

While the Bicycle Federation of America supports your efforts, we have no membership or constituency to energize. I would urge you to work closely with the League in generating grassroots support for your proposed legislation, as I know they have been active on this issue in the past.

Best wishes for your work in this area, and do please keep us informed as to progress.

Yours sincerely,

ANDY CLARKE,  
Project Manager.

Mr. HATFIELD. This legislation would set a 70-percent standard for beverage container recycling. States would have 2 years to reach this level. During this period, States would have the flexibility to adopt any approach whatsoever. If States fail to reach the 70-percent level, they would be required to institute a deposit system as outlined in this legislation, which would include a 10-cent deposit on beverage containers and a 2-cent handling fee paid to retailers by beverage distributors. Unclaimed deposits would be retained by the State to be used to combat the mounting solid waste crisis facing this Nation.

One of the principal goals of this legislation is to encourage, through private enterprise, the development of a more efficient and comprehensive recycling infrastructure. Just as infrastruc-

ture is a vital part of our Nation's transportation system, infrastructure is also one of the most important components of a successful recycling program. Our bill includes a handling fee and encourages productive uses of unclaimed consumer deposits for this purpose. At the proper time, it is my intent to offer the bill as an amendment to the RCRA reauthorization bill.

I need not tell you that it takes a lot of energy to produce the aluminum and the glass that contains these beverages, and I need not tell you that when you begin to calculate the potential savings of reuse and recycling, they are monumental. We voted in this Senate not too long ago with only one dissenting vote, to send our troops into the Persian Gulf to fight a war. That war, regardless of all of the camouflage, was basically and fundamentally a war for oil.

Mr. President, States with deposit legislation have consistently recycled above the national average. To date, their efforts translate into an energy savings of over 3.5 billion gallons of oil worth \$2.3 billion. If enacted on a nationwide basis, a deposit system would save the equivalent of 4 million gallons a day. Today, as we look back on the lives lost in the Persian Gulf, we can better appreciate the true cost of each gallon of that precious fuel.

Aluminum is the most energy intensive of the materials commonly used in beverage containers. To throw one of these cans away is like throwing it away half full of gasoline. A can produced from recycled scrap rather than new bauxite cuts energy use and air pollution by 95 percent. A bottle made of recycled glass uses 32 percent less energy, produces 20 percent less air pollution, and eliminates 80 percent of mining wastes and 50 percent of the water used.

It is important to remember that if recycling is good, refilling is better. It is true that significant energy savings are realized through recycling. However, a refillable bottle used ten times will save 80 percent of the energy required to deliver a one-way bottle made from recycled glass. The use of refillable bottles means that fewer containers must be made to begin with and the pollution resulting from their manufacture is decreased. If we sold just half of our beer in refillable bottles, we could prevent 46 million pounds of pollutants from mixing with the air we breathe and another 4.2 million pounds from mixing with the water we drink.

Unfortunately, refillables represent under 5 percent of the beverage container market in this country. This has not always been the case. As recently as 1960, 95 percent of our soft drinks and half of our beer came in refillable containers on which a deposit was paid. Industry abandoned the idea of refillable containers and turned instead to the hassle-free one-way container. By

1980, the numbers had changed radically: Over two-thirds of our soft drinks and 80 percent of our beer came in one-way, throwaway containers.

As is so often the case, industry's benefit has meant society's loss. It costs about 10 cents to make a new bottle—about twice as much as the beverage inside. Consumers pick up this cost in the price of the beverage. Consumers pay again when these containers are discarded, to the tune of \$170 million per year to recycle and dispose of nonrefillable beer bottles alone. These costs are exacted from consumers in the form of local taxes for service.

The States that have implemented deposit legislation have taken a constructive step toward addressing the important issues of solid waste management and energy conservation. Their solution encourages citizens to recycle through the good old American idea of positive incentive. The continued success of those States is irrefutable evidence that deposit systems work. Unlike so much of what we do on the Federal level, passage of the legislation I and my colleagues propose today would render immediate results.

Take Oregon as an example. In 1971, during my first term as a U.S. Senator, Oregon passed the Nation's first beverage container deposit law, which required a 5-cent deposit on each beverage container, redeemable upon return to the grocer. Today, my State recycles more than 93 percent of the beverage containers sold and the popularity of the program continues to be strong.

I ask unanimous consent to insert in the RECORD a letter from Commissioner Earl Blumenauer of the city of Portland describing the continued success of Oregon's deposit law, and particularly its harmonious relationship with the city's ambitious curbside recycling program.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CITY OF PORTLAND, OR.  
BUREAU OF ENVIRONMENTAL SERVICES,  
March 10, 1992.

Hon. MARK O. HATFIELD,  
Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR HATFIELD: The City of Portland applauds and wholeheartedly supports your effort to create a national beverage container recycling program. In Portland, because of Oregon's "bottle bill", citizens have been recycling glass, metal and plastic beverage containers on a voluntary basis for 20 years. Additionally, we have a greatly reduced litter problem and less recyclable material taking up space in our landfills.

Curbside recycling programs and "bottle bill" deposit programs complement each other and together help achieve higher recycling rates. All cities in Oregon with a population of 4,000 or more provide curbside recycling service. The City of Portland recently expanded its curbside program to include pickup of two new materials, magazines and milk jugs (to go along with glass, tin cans,

newspaper, cardboard, aluminum, scrap metals and used motor oil). The comprehensive combination of deposits on beverage containers and curbside collection of household recyclables leads to significant diversion from the waste stream.

The Portland metropolitan area currently recycles over 32 percent of its waste stream, one of the highest urban recovery figures in the nation. With a return rate of nearly 95 percent on deposit containers, our area gains a substantial benefit in recycling efforts through the "bottle bill".

We wish you success in this effort.

Sincerely,

COMMISSIONER EARL BLUMENAUER.

Mr. HATFIELD. Mr. President, one of the concerns about this legislation is that it is incompatible with curbside recycling. As was recently reinforced before the Environment and Public Works Subcommittee on Environmental Protection by Fred Hansen, director of Oregon Department of Environmental Quality, States that have working deposit systems are experiencing greater success by pairing a deposit system with a curbside system. They are diverting more waste from the landfills and spending less per ton doing it. Oregon has seen a significant expansion of curbside programs that work effectively in tandem with Oregon's bottle bill.

The 1990 GAO report commissioned by Senator JEFFORDS, Congressman HENRY, and myself indicates that curbside systems and deposit systems are compatible. I have also recently become aware of studies in the cities of Seattle and Cincinnati that indicate a dual deposit/curbside approach would divert 60 percent more waste from the landfill than the current curbside program alone. Even an industry commissioned study by Franklin & Associates produced figures that support this conclusion.

The conclusion of the Seattle study should answer many lingering questions about compatibility:

Based on the assumptions previously set forth, the presence of a bottle bill would increase recycling levels of beverage containers and reduce the city's overall solid waste management system costs. This remains the case even when the city compensates the curbside recycling companies for lost collection revenue and lost revenue from the sale of recyclable materials. In short, the bottle bill would divert additional tonnage with no significant impact to either city costs or curbside recycling profits.

I ask unanimous consent that the Seattle study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEATTLE SOLID WASTE UTILITY,  
September 6, 1991.

E. GIFFORD STACK,  
Vice-President, Solid Waste Programs, National Soft Drink Association, Washington, DC.

DEAR MR. STACK: Since the issue of national deposit legislation has moved front and center, the City of Seattle Solid Waste Utility has received numerous inquiries regarding the potential economic impact a de-

posit law would have on Seattle's curbside recycling programs. Requests for information have been received from federal legislators, the National Container Recycling Coalition (NCRC) and from your group, the National Soft Drink Association (NSDA).

As you know, studies have been released from groups both supporting and opposing national deposit legislation which draw surprisingly different conclusions. The conclusions drawn, in large part, are a result of the questions asked. The questions asked very significantly. In response to your question: "What would be the economic impacts of a national deposit law on Seattle's curbside recycling programs?", our staff has written a brief analysis.

This analysis should not be taken as either support or opposition to a national deposit law. The Solid Waste Utility has simply attempted to determine local economic impacts of a national deposit law. In order to answer your question, numerous assumptions had to be made. Our bottom line was that the City would do whatever was in its power to continue the curbside recycling program as it is currently structured were national deposit legislation to occur.

Under current conditions, a deposit law would result in a 15% reduction in tonnage and a 28% decline in overall revenues (collection revenues and sale of materials) to Seattle's curbside recycling companies. More specifically, revenue from the sale of curbside materials would decline by 46%. However, these declines are more than offset by additional tonnage recovered through the deposit law and cost-savings to the City from avoided collection and disposal cost. Our analysis indicates that were a deposit law to be passed, the City would be able to compensate curbside recyclers for lost revenue and still continue the curbside program.

Regardless of our findings, the potential for a national deposit law demands that further in-depth investigation of a number of issues be done. These are some of the questions that legislators should ask.

What are realistic participation and diversion levels when curbside recycling is analyzed at the state level?

What percentage of the population in the U.S. would actually receive curbside recycling services?

How can the social, environmental and economic costs and benefits of litter reduction be incorporated into the analysis of potential impacts from deposit legislation?

Which system (curbside recycling or a deposit law) results in a more equitable allocation of the recycling and disposal costs associated with the consumption of beverage containers?

What is the public level of support for a national deposit law?

Answers to these questions will allow legislators to make an informed decision. We hope you find this information useful. If you have any questions about the report, please contact Ray Hoffman from our staff at 684-7655.

Sincerely,

DIANA GALE.

THE POTENTIAL IMPACT OF A NATIONAL BOTTLE BILL ON SEATTLE'S CURBSIDE RECYCLING PROGRAM

#### INTRODUCTION

Since the bottle bill issue has gone national, the Seattle Solid Waste Utility has received numerous requests concerning the potential impact of a bottle bill on Seattle's curbside recycling programs. These requests have come from a range of individuals and groups including federal representatives, the

National Soft Drink Association and the Container Recycling Institute.

The analysis that follows attempts to discern whether or not a bottle bill would significantly impact the City's curbside recycling programs. In order to conduct such an analysis, numerous assumptions are required. Where possible, the analysis uses real numbers based on Seattle's curbside recycling program. This analysis does not compare overall system costs for curbside recycling and bottle bills. Because of the drastically different methods of collecting material, number of materials collected, geographic coverage (bottle bills cover residential/commercial whereas curbside recycling is tailored to residential), and financing of the collection systems (i.e. who pays?), it is difficult to conduct an apples-to-apples comparison between the systems. This analysis focuses only on the potential impacts to the City's curbside recycling program. It looks at economic impacts to the City and the curbside recycling companies as well as the total amount of material diverted.

#### BACKGROUND

Over the past several years that has been an increasing amount of discussion concerning the possibility of a national bottle bill. Currently ten states have bottle bills in one form or another. Numerous other states, including Washington, have attempted to pass deposit legislation in the past. On one issue, the performance of bottle bills is perfectly clear . . . the diversion of beverage containers from the waste stream reaches significantly higher levels than under curbside recycling programs. For a curbside recycling program to obtain a similar performance level to bottle bill states would require both participation and diversion rates of over 90%. The City of Seattle has a current sign-up rate of 87% for its residential curbside program with a diversion rate that hovers around 57% for beverage containers covered by a deposit law.

Supporters of a national bottle bill point toward the increased diversion of material that would occur when compared to the performance of curbside recycling programs alone. They also show evidence that the per ton costs of government financed program would be lower. Proponents like to point out that the recycling success for PET beverage containers is due solely to deposit legislation. 90% of recovered PET containers come from the ten states with bottle bills.

Opponents stress the major loss of revenue that would be experienced by curbside recycling companies losing their higher value materials such as aluminum, PET and glass containers. Without these materials, the argument continues, curbside companies would no longer be in a position to collect such materials as newspaper and mixed paper which comprise the lion's share of curbside tonnage.

Opponents also argue that a national bottle bill would have higher overall system costs associated with the diversion of beverage containers. It should be noted that the systems costs argument is in essence a policy debate as to what is an acceptable level of costs for achieving high diversion levels of readily recyclable materials and substantially reducing existing litter problems. This debate is far from resolved. Efforts to determine the potential impacts of a combined curbside/bottle bill recycling system are based on numerous diversion and economic assumptions that are broadly divergent.

It is undeniable that a bottle bill, whether state or national in scope, would have an impact on current recycling infrastructures. As

with any change in the way business is done, there would be winners and losers. From a public policy standpoint, it is important to determine the magnitude of negative and positive impacts associated with a proposed change, and to identify, if possible, ways to mitigate or reduce, the negative impacts. Finally, a decision must be made as to whether the benefits of the proposed policy justify inflicting some degree of loss on specific groups.

#### OTHER STUDIES

Most analyses of the impact of deposit legislation on curbside recycling attempt to measure the increases or decreases in costs assigned to specific interests. As a result, a study by the National Container Recycling Coalition (NCRC) comes to the conclusion that a combined curbside/bottle bill program diverts the largest amount of material at the lowest cost per ton to government. This results from the fact that the costs associated with the collection and disposal of beverage containers are shifted from government to the producers and consumers of the containers. The study also suggests that potential curbside losses could be reduced by recyclers claiming the deposit on any beverage containers that end up in the curbside mix or by redirecting unclaimed deposits (a substantial amount of money in most states) back to local governments.

The Tellus Institute has conducted an analysis which concludes that bottle bills decrease curbside revenues, are not economically justifiable when a systems cost perspective is taken, and may or may not divert additional materials depending on the tipping fee that is assumed.

#### ASSUMPTIONS USED IN THIS STUDY

1. The City assumes that the curbside recycling companies must continue to make the same amount of revenue per ton. For example, if curbside companies currently receive \$100.25 per ton, (collection and market revenues combined), then curbside companies would continue to receive that amount for all tonnage collected. This assumption is used in order to assure the continuation of the existing curbside recycling program while mitigating potential losses to the curbside recycling companies. To accomplish this, given the loss of both collection revenue and market revenue from the sale of materials, the City must redirect avoided disposal costs to the curbside recycling companies in order for them to retain their current level of profitability.

2. All beverage containers currently collected in the curbside program would be diverted. This is a worst case scenario, as some portion of redeemable containers still show up in curbside collection systems. (Actual percentages from NCRC indicate that the towns of Islip and Des Moines retain 7.5 percent and 23 percent of their beverage containers in their respective curbside programs).

3. 65 percent of residential glass containers are beverage containers. This reflects composition numbers from the City's 1988/89 and 1990 waste stream composition studies. Nationally, beer and soft drink containers represent 50 percent of total glass containers.

4. Market values for all materials are based on 1990 reported prices from curbside recyclable collected within the City.

5. Collection revenue for the curbside recycling companies is calculated at \$57 a ton for all tons collected, \$54 a ton plus \$3 a ton risk share for total tons collected.

6. Collection revenue for the curbside recycling companies is also estimated at \$70 and

\$80 a ton. The \$70 figure is the City's implied ceiling for renegotiated contracts while the \$80 figure can be considered an absolute worst case scenario.

7. All beverage container tons diverted from the curbside program would save the City either \$57 or \$70 or \$80 a ton (see assumptions 5 & 6).

8. Additional tons diverted due to the impact of a bottle bill save the City either \$75 a ton or \$90 a ton depending on which avoided disposal cost is assumed. The full avoided disposal cost is used because these are tons which have not been previously collected through the curbside program and would be diverted from garbage collection.

9. Uncollected (disposed) tons are based on the 1990 waste stream composition study. This tonnage reflects the potential additional redeemable beverage containers that could be diverted from the residential waste stream.

10. Diversion levels of 70%, 80%, and 90% are employed for the remaining redeemable containers. Bottle bills generally divert at least 70% of targeted containers; with some states diverting over 90% of targeted containers.

11. The City would compensate the curbside recycling companies for profits lost on diverted tonnage. It is assumed that total revenues reflect a 20% markup over total costs. For example, if total curbside revenues are \$100.25 a ton, then total curbside collection and processing costs are (\$100.25/1.2)=\$83.54 per ton. The profit level is then \$83.54-\$16.70 a ton. This per ton amount would be paid for the 6,671 tons diverted from the curbside program.

#### FINDINGS

Table I shows the breakdown of both tonnage and revenue by material category for Seattle's curbside recycling program in 1990. (Table not reproducible in the Record.)

#### DIVERSION

Under the assumptions used in this analysis, a bottle bill would result in a 42% to 54% increase in beverage container tonnage diverted over curbside recycling alone. Total curbside recycling tonnage would increase by 6% to 8% as well. This additional tonnage is based on bottle bill recovery rates ranging from 70% to 90%, well within the recovery range currently occurring in all bottle bill states.

#### TONNAGE LOSS TO RECYCLING COMPANIES

A total of 6,671 tons of beverage containers that are currently collected would be diverted from the curbside program, including all aluminum and PET and 65% of glass containers.

#### REVENUE LOSS TO RECYCLING COMPANIES

A bottle bill would result in a 28% decline in total revenues collected by the curbside recycling companies. Depending on the collection costs assumed, total revenue lost ranges from \$1,291,659 to \$1,445,092. Two-thirds of this decline comes from revenue losses associated with the market value of beverage containers, while the remainder is lost collection revenue.

#### COST SAVINGS TO THE CITY

Minimum cost savings to the City under a bottle bill would be \$591,245 (70% recovery level, \$57 per ton avoided recycling collection cost, and \$75 per ton avoided disposal cost). Maximum cost savings to the City under a bottle bill would be \$859,219 (90% recovery level, \$80 per ton avoided recycling collection cost, and \$90 per ton avoided disposal cost). Cost savings fall into two categories: avoided recycling collection costs

for tons diverted from the current curbside program; and avoided disposal costs for additional tons diverted from the residential waste stream.

#### COMPENSATING CURBSIDE RECYCLERS FOR REVENUE LOSS THROUGH COST SAVINGS ACCRUING TO THE CITY

The maximum additional amount the City would pay out to private recyclers (above and beyond what the City would pay them without a bottle bill) to keep them in their current position is \$354,328 (See Table IV, Row R).

#### OVERALL SYSTEM SAVINGS TO CITY

Overall systems savings to the City is the difference between the sum of avoided recycling collection costs and avoided disposal costs and increased payments to curbside recyclers (Table IV, Row R). Overall system savings range from \$236,917 to \$632,774 depending on assumptions for recycling collection costs, avoided disposal costs and diversion level.

#### PER TON COSTS TO THE CITY

Ultimately, whether a combined curbside/bottle bill program is cost-effective for the City depends on whether the costs are spread over the remaining curbside tons (Table IV, Row G) or over the combination of curbside tons and bottle bill tons. If curbside tons are the measure, then a combination curbside/bottle bill program would be marginally cost-effective if \$57 per ton collection costs were assumed and not cost effective if higher collection costs were assumed (Table IV, Row S). If combined curbside/bottle bill tons are the measure, then a combined curbside/bottle bill program would be cost-effective for the City under all scenarios (Table IV, Row T). Under both of these scenarios the curbside recycler continues to collect the same amount of revenue per ton as they did before the bottle bill.

#### CONCLUSIONS

Based on the assumptions previously set forth, the presence of a bottle bill would increase recycling levels of beverage containers and reduce the City's overall solid waste management system costs. This remains the case even when the City compensates the curbside recycling companies for lost collection revenue and lost revenue from the sale of recyclable materials. In short, a bottle bill would divert additional tonnage with no significant impact to either City costs or curbside recycling profits.

TABLE IV

	Collection (\$57/ton)	Collection (\$70/ton)	Collection (\$80/ton)
A. Curbside tons	45,737	45,737	45,737
B. Collection revenue (city cost)	\$2,607,009	\$3,201,590	\$3,658,960
C. Market revenue	\$1,978,082	\$1,978,082	\$1,978,082
D. Total revenues (B+C)	\$4,585,091	\$5,179,672	\$5,637,042
E. Revenue per ton (D/A)	\$100.25	\$113.25	\$123.25
F. Curbside tons lost from bottle bill	6,671	6,671	6,671
G. Net curbside tons (A-F)	39,066	39,066	39,066
H. Curbside revenue lost	\$1,291,659	\$1,378,382	\$1,445,092
I. Net Curbside revenue (D-H)	\$3,293,432	\$3,801,290	\$4,191,950
K. Net Revenue per ton (I/G)	\$64.30	\$97.30	\$107.30
L. Lost Revenue per ton (E-K)	\$-15.95	\$-15.95	\$-15.95
M. Revenue repayment to curbside recyclers (GL)	\$623,103	\$623,103	\$623,103
N. Profit repayment of lost tons F(E/L22)	\$111,472	\$125,915	\$137,022
P. Curbside collection costs on reduced tons	\$2,226,762	\$2,734,620	\$3,125,280
O. Total curbside collection costs under 33 (M+N+P)	\$2,961,337	\$3,483,638	\$3,885,405
R. Change in city costs (O-B)	\$354,326	\$282,048	\$226,445
S. Curbside collection cost per ton when allocated to curbside tonnage (O/G)	\$75.80	\$89.17	\$99.46
T. Curbside collection cost per ton when allocated to all tons (curbside+BB)			
90 percent	\$60.00	\$70.58	\$78.72

TABLE IV—Continued

	Collection (\$57/ton)	Collection (\$70/ton)	Collection (\$80/ton)
80 percent .....	\$60.49	\$71.16	\$79.37
70 percent .....	\$61.00	\$71.75	\$80.03
U. Total curbside recycling revenues (J+M+N) .....	\$4,028,007	\$4,550,308	\$4,952,075
V. Total curbside recycling revenues per ton (U/G) .....	\$103.11	\$116.48	\$126.76

Mr. HATFIELD. Mr. President, the best argument for a bottle bill is the outstanding record it has in the States where it has been adopted. The decrease in residential solid waste in these States is between 5 and 6 percent. That means that a landfill which was scheduled to last 20 years would operate for 21 years.

While those in the beverage industry may scoff at such minor gains, those on the front lines of the solid waste war in this country—the city and county governments—have a different perspective. They would gladly accept a waste reduction of 5 to 6 percent. And it is no wonder why: the Environmental Protection Agency now predicts that 80 percent of all landfills will fill up and close within the next 20 years. Under such a sobering scenario, an extra year is critical. I am proud to count among supporters of this legislation the National Association of Counties and the National League of Cities.

The legislation we introduce today will not infringe on any citizen's convenience. Americans will still have the option of discarding beverage containers. It will only obligate each user who discards a bottle or can to pay something nearer to the true cost of that decision to discard. Conversely, it will provide an incentive to those who choose to participate in cleaning up of our land, the reduction of our teeming landfills, the wise stewardship of our natural resources, and the saving of scarce energy.

For centuries, we have had the luxury of ignoring the indirect costs of using our planet. This is a luxury we can no longer afford. We must become better stewards of the Earth. Where possible, we must balance our consumption with the renewal of the Earth's resources. Where renewal is not possible, we must use no more than a reasonable share, and reuse whatever we can. This bill is both a symbolic and a substantive step in that direction.

One of the greatest benefits of the bottle bill is that it acts as a tutor. It is a constant reminder of the conservation ethic that is an essential component of any plan to see this country through its various solid waste difficulties. Each time a consumer returns a can for deposit, the conservation ethic is reaffirmed, and hopefully the consumer will then reapply this ethic in other areas.

I have found that, in Oregon, container deposits are incentive enough for many to spend the day picking up litter. As the figures show, it is not

just beverage container litter that is decreased under a deposit system, total litter drops significantly as well. This bill promotes thoughtful stewardship of our Nation's resources.

The recovery rate in States with deposit legislation on the books runs consistently in the 80- to 90-percent range, while States without deposit laws recover about 30 to 40 percent. It is unnecessary to continue to see this disparity in recovery rates. Deposits work. They compliment curbside recycling efforts and they provide incentives in the many thousands of communities that have yet to see the advent of curbside recycling programs.

As Congress undertakes the reauthorization of the Resource Conservation and Recovery Act [RCRA], recycling will no doubt continue to emerge as one of the most effective tools in addressing the solid waste crisis. I know the sad irony of overflowing landfills on one hand and diminishing resources on the other is not lost on my colleagues. I am most encouraged by indications that our constituents are losing patience with this irony as well.

Mr. President, now more than ever, we need programs with the popular support and effectiveness of deposit systems. We need to put higher priorities on reducing waste, conserving energy and changing our throw-away mentality. There are many demonstrated benefits to a deposit approach. It is time to stop nodding as these substantial benefits pass us by—as the 60 billion beverage containers are hauled off to the landfills each year.

I ask unanimous consent that the bill and a section-by-section summary of the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. HATFIELD. Mr. President, as we review this material, let me also explain a strategy. Last year, we introduced a bill that offered an olive branch to industry. We addressed the issues that had been used by industry to object to a national piece of legislation. We received no response.

Mr. President, there was an absolute demonstration of the indifference of industry toward this proposition. So I want to say that we have now taken the approach that is strictly an environmental approach, and that is the essence of this bill.

Mr. President, I ask unanimous consent that a January 1992 report entitled "Beverage Container Deposit Systems in the United States" prepared by the Container Recycling Institute and a summary of a July 1991 report entitled "An Economic and Waste Management Analysis of Maine's Bottle Deposit Legislation" prepared by Prof. George Criner of the University of Maine be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HATFIELD. Mr. President, I was pleased to have read a recent article written by Professors Lodge and Rayport of the Harvard Business School which appeared in the Harvard Business Review. The article was entitled "Knee Deep and Rising: American Recycling Crisis." The professors advocate "instituting a national container deposit law to promote recycling in rural as well as urban areas and to raise funds for the further development of the national infrastructure."

I ask unanimous consent that the article from the September-October 1991 issue of the Harvard Business Review be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HATFIELD. Mr. President, I ask unanimous consent that an article appearing in the Washington Post, dated March 11, 1992, entitled "Per-Can Fees Catch on as Area's Trash Mounts," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### PER-CAN FEES CATCH ON AS AREA'S TRASH MOUNTS

(By D'Vera Cohn)

Taking out the trash just isn't the same for Pat Mucia, of Sterling, since his garbage man began charging based on how many cans Mucia leaves at the curb.

He stomps on the trash so it will squeeze into one container. A recycler already, he now takes extra care not only to sort aluminum, glass and newspapers for free curbside pickup, but also to take tin cans and cardboard boxes to a collection station. The system, he says, cut his family's \$20 monthly trash bill in half since he signed up two years ago.

"I'm not going to get rich by saving money here. It's for the environment too," Mucia said. Still, "especially in this economy, a few bucks is a few bucks."

Most single-family houses in the Washington area still pay a flat fee for unlimited trash pickup, either directly to a hauler or as part of their property tax bill. But the idea of rewarding customers with a lower charge for leaving less at the curb is catching on. Households in some Loudoun County communities already are being charged by the bag. In proposing yesterday to charge a separate trash collection fee of \$71 a year, Howard County officials said the county eventually may charge by the bag or can. Montgomery County is planning an experiment with pay-as-you-throw and other local governments are considering it.

The concept is intended to save dwindling landfill space at a time when Americans are throwing out an average of one-half ton of trash per person per year. Environmental officials hope the incentive will encourage people to recycle more, compost their grass and leaves, shun bulky packaging and use goods until they wear out.

Commercial trash pickup has worked on volume-based rates for many years, but several thousand customers of Grayson Refuse in Loudoun County are the first local home-

owners to be offered pay-by-the-can trash pickup as an option. Ninety percent signed up for it, according to President David Grayson. He said it is ideal for people who live alone, recycle a lot, eat out often or go away frequently. But even large families have signed up, he said.

Montgomery County hopes to try a pilot project in Rockville this summer, and officials in Arlington, Fairfax and Anne Arundel counties say they are looking into the plan. Local trash companies also are being pressed by homeowners' associations to offer lower rates because residents are removing more recyclable goods from their trash.

Nationally, Seattle Consultant Lisa Skumatz could find only about 20 communities offering incentives for putting less out at the curb when she wrote a how-to handbook for the U.S. Environmental Protection Agency six years ago. Now, she said, more than 200 do, including Seattle, Minneapolis and many small and medium-size towns.

"If I'm a single 70-year-old woman, I probably put out half a bag a week," said Paul A. Leonard, borough manager of Perkasi, Pa., which began using such a system four years ago. "If I'm a father of eight, I put out seven bags a week. Why should they pay the same rate?"

Stories of how people try to beat the system are part of the folklore of pay-per-can programs. Trash experts across the country know about the "Seattle stomp"—jumping on the trash to get more to fit into a can. Some Seattle customers soak their trash in water to make it more compact. Perkasi residents have been known to run over trash with their cars to get it down to size, Leonard said.

Some communities sell their own trash bags or stickers that attach to trash containers, and only "official" trash is picked up. Others have customers sign up for service based on how many cans they leave out each week. Seattle even tried weighing people's trash, an experiment Skumatz believes will turn into the method of choice for future pickup. Recyclable goods are picked up for free.

For John Piombino, of Sterling, another Grayson customer, trash pickup is like electricity or water service: You should pay only for what you use. He and his wife, who even take paper bags back to the grocery store, said they have cut their trash bill by about 75 percent. They now pay \$3.50 a month, instead of a \$14 to \$16 flat fee.

"I don't want to pay a fixed amount," Piombino said. "If I did, I would be subsidizing people who put out tons of trash."

Environmental Protection Agency officials say trash collected drops at least 10 percent in communities that install pay-per-bag pricing, and Skumatz said the figure ranges up to 45 percent. In Kent County, Md., where one-third of the households drop their trash off at the landfill, the amount went down 63 percent after officials imposed a 23-cent per-bag fee last summer for landfill dropoff, recycling coordinator Beryl Friel said.

Seattle's typical household puts out only one can of trash a week, compared with 3½ when the program began a decade ago, according to Ginny Stevenson, a spokeswoman for the City's Solid Waste Utility. Participants in Seattle's pay-by-the-pound experiment reduced their trash by 15 percent more.

Seattle customers sign up for pick-up of a 19-gallon "mini" can for \$10.70 a month, a standard 32-gallon can at \$13.75 a month, and extra cans for \$9 each. They pay an extra fee for bulky items such as sofas.

"We have a number of families of five on the mini-can," Stevenson said. "A lot of people find it a real challenge."

Officials do not always mind the stomp or similar tactics because they help save space at the landfill. But they are concerned about people putting trash in a convenience store dumpster, taking it to their employer's refuse area, or dumping it illegally on a back road.

"People have to answer the question: Do we buy another \$10 bag or get rid of it somewhere else?" said Alan Bergsten, chief of Montgomery County's Solid Waste Management Division. "That's a concern of mine."

Skumatz said the 100 communities she studied across the country found illegal dumping to be only a temporary problem, and sometimes not a problem at all.

But she and others say pay-per-can may not work everywhere. Seattle officials are the first to admit they benefit from the enthusiastic environmentalism of city residents, a characteristic that other areas may not be able to call upon.

In communities where trash service had been included in property tax bills, proposals for incentive pricing stir opposition from people who do not want to pay a new fee. To counter criticism that pay-by-the-can is unfair to low-income people, Seattle and some other areas offer a discount to the poor.

Proposals to change the trash fee structure also run into complaints from haulers who say it would be too complicated to implement and could lead to cheating.

"It has potential," said Fairfax County recycling coordinator Tanis Skislak, "but it's a relatively complex program to implement in an area where you have 62 private haulers." Seattle has contracts with only two haulers.

"It would be impossible to regulate," said Don Poehler, president of ABC Disposal Service Inc., Prince William County's largest trash pickup service.

Grayson said his program has not always run smoothly. He said he raised rates after realizing he had set them too low to make money. The first set of stickers that he bought—he offers decal and can service—tended to fall off and blow away, so he had to switch brands.

Now, though, he is turning down offers to expand into other communities because he does not want to take the risk. He speaks regularly to waste-disposal trade groups because everyone wants to know how he does it.

"Business," Grayson said, "has been very good."

#### EXHIBIT 1 S. 2335

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "National Beverage Container Reuse and Recycling Act of 1992".

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and aesthetic blight and imposes upon public agencies, private businesses, farmers, and landowners unnecessary costs for the collection and removal of such containers.

(3) Solid waste resulting from such empty beverage containers constitutes a significant

and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of such waste.

(4) It is difficult for local communities to raise the necessary capital needed to initiate comprehensive recycling programs.

(5) The reuse and recycling of empty beverage containers would help eliminate these unnecessary burdens on individuals, local governments, and the environment.

(6) Several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers, and these have proven inexpensive to administer and effective at reducing financial burdens on communities by internalizing the cost of recycling and litter control to the producers and consumers of beverages.

(7) A national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would result in a high level of reuse and recycling of such containers and help reduce the costs associated with solid waste management.

(8) A national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery.

(9) The reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on the Federal Government, local and State governments, and the environment.

(10) The collection of unclaimed refunds from such a system would provide the resources necessary to assist comprehensive reuse and recycling programs throughout the Nation.

(11) A national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(12) The provisions of this Act are consistent with the goals set in January 1988, by the Environmental Protection Agency, which establish a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000.

#### SEC. 3. AMENDMENT OF SOLID WASTE DISPOSAL ACT.

(A) AMENDMENT.—The Solid Waste Disposal Act is amended by adding the following new subtitle at the end thereof:

#### "SUBTITLE K—BEVERAGE CONTAINER RECYCLING

#### "SEC. 12001. DEFINITIONS.

"For purposes of this subtitle—

"(1) The term 'beverage' means beer or other malt beverage, mineral water, soda water, wine cooler, or a carbonated soft drink of any variety in liquid form intended for human consumption.

"(2) The term 'beverage container' means a container constructed of metal, glass, plastic, or some combination of these materials and having a capacity of up to one gallon of liquid and which is or has been sealed and used to contain a beverage for sale in interstate commerce. The opening of a beverage container in a manner in which it was designed to be opened and the compression of a beverage container made of metal or plastic shall not, for purposes of this section, constitute the breaking of the container if the statement of the amount of the refund value of the container is still readable.

"(3) The term 'beverage distributor' means a person who sells or offers for sale in interstate commerce to beverage retailers beverages in beverage containers for resale.

"(4) The term 'beverage retailer' means a person who purchases from a beverage distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer.

"(5) The term 'consumer' means a person who purchases a beverage container for any use other than resale.

"(6) The term 'refund value' means the amount specified as the refund value of a beverage container under section 12002.

"(7) The term 'wine cooler' means a drink containing less than 7 percent alcohol (by volume), consisting of wine and plain, sparkling, or carbonated water and containing any one or more of the following: non-alcoholic beverage, flavoring, coloring materials, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives.

#### **"SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.**

"Except as otherwise provided in section 12007, no beverage distributor or beverage retailer may sell or offer for sale in interstate commerce a beverage in a beverage container unless there is clearly, prominently, and securely affixed to, or printed on, the container a statement of the refund value of the container in the amount of 10 cents. The Administrator shall promulgate rules establishing uniform standards for the size and location of the refund value statement on beverage containers. The 10 cent amount specified in this section shall be subject to adjustment by the Administrator as provided in section 12008.

#### **"SEC. 12003. ORIGINATION OF REFUND VALUE.**

"For each beverage in a beverage container sold in interstate commerce to a beverage retailer by a beverage distributor, the distributor shall collect from the retailer the amount of the refund value shown on the container. With respect to each beverage in a beverage container sold in interstate commerce to a consumer by a beverage retailer, the retailer shall collect from the consumer the amount of the refund value shown on the container. No person other than the persons described in this section may collect a deposit on a beverage container.

#### **"SEC. 12004. RETURN OF REFUND VALUE.**

"(a) **PAYMENT BY RETAILER.**—If any person tenders for refund an empty and unbroken beverage container to a beverage retailer who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the retailer shall promptly pay such person the amount of the refund value stated on the container.

"(b) **PAYMENT BY DISTRIBUTOR.**—If any person tenders for refund an empty and unbroken beverage container to a beverage distributor who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the distributor shall promptly pay such person (1) the amount of the refund value stated on the container, plus (2) an amount equal to at least 2 cents per container to help defray the cost of handling. This subsection shall not preclude any person from tendering beverage containers to persons other than beverage distributors.

"(c) **AGREEMENTS.**—(1) Nothing in this subtitle shall preclude agreements between distributors, retailers, or other persons to establish centralized beverage collection cen-

ters, including centers which act as agents of such retailers.

"(2) Nothing in this subtitle shall preclude agreements between beverage retailers, beverage distributors, or other persons for the crushing or bundling (or both) of beverage containers.

#### **"SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND PROVISIONS FOR STATE RECYCLING FUNDS.**

"(a) **UNCLAIMED REFUNDS.**—At the end of each calendar year each beverage distributor shall pay to each State an amount equal to the sum by which the total refund value of all containers sold by the distributor for resale in that State during that year exceeds the total sum paid during that year by the distributor under section 12004(b) to persons in that State. The total of unclaimed refunds received by any State under this section shall be available to carry out pollution prevention and recycling programs in that State.

"(b) **REFUNDS IN EXCESS OF COLLECTIONS.**—If the total of payments made by a beverage distributor in any calendar year under section 12004(b) for any State exceeds the total refund value of all containers sold by the distributor for resale in that State, the excess shall be credited against the amount otherwise required to be paid by the distributor to that State under subsection (a) for a subsequent calendar year designated by the beverage distributor.

#### **"SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS AND POST-REDEMPTION DISPOSAL.**

"(a) **DETACHABLE OPENINGS.**—No beverage distributor or beverage retailer may sell, or offer for sale, in interstate commerce a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

"(b) **POST-REDEMPTION DISPOSAL.**—No retailer or distributor or agent of a retailer or distributor may dispose of any beverage container labeled under section 12002 or any metal, glass, or plastic from such a beverage container (other than the top or other seal thereof) in any landfill or other solid waste disposal facility.

#### **"SEC. 12007. EXEMPTED STATES.**

"(a) **IN GENERAL.**—The provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle shall not apply in any State which—

"(1) has adopted and implemented requirements applicable to all beverage containers sold in that State which the Administrator determines to be substantially identical to the provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle; or

"(2) demonstrates to the Administrator that, for any period of 12 consecutive months following the date of the enactment of this subtitle, such State achieved a recycling or reuse rate for beverage containers of at least 70 percent.

If at any time following a determination under paragraph (2) that a State has achieved a 70 percent recycling or reuse rate the Administrator determines that such State has failed, for any 12-consecutive month period, to maintain at least 70 percent recycling or reuse rate of its beverage containers, the Administrator shall notify such State that, upon the expiration of the 90-day period following such notification, the provisions under sections 12002 through 12005 and sections 12008 and 12009 shall be applicable to that State until a subsequent determination is made under subparagraph (A) or a demonstration is made under subparagraph (B).

"(b) **DETERMINATION OF TAX.**—No State or political subdivision which imposes any tax on the sale of any beverage container may impose a tax on any amount attributable to the refund value of such container.

"(c) **EFFECT ON OTHER LAWS.**—Nothing in this subtitle shall be construed to affect the authority of any State or political subdivision thereof to enact or enforce (or continue in effect) any law respecting a refund value on containers other than beverage containers or from regulating redemption and other centers which purchase empty beverage containers from beverage retailers, consumers, or other persons.

#### **"SEC. 12008. REGULATIONS.**

"Not later than 12 months after the date of enactment of this subtitle, the Administrator shall prescribe regulations to carry out this subtitle. The regulations shall include a definition of the term 'beverage retailer' in a case in which beverages in beverage containers are sold to consumers through beverage vending machines. Such regulations shall also adjust the 10 cent amount specified in section 12002 to account for inflation. Such adjustment shall be effective 10 years after the enactment of this subtitle and additional adjustments shall take effect at 10 year intervals thereafter.

#### **"SEC. 12009. PENALTIES.**

"Any person who violates any provision of section 12002, 12003, 12004, or 12006 shall be subject to a civil penalty of not more than \$1,000 for each violation. Any person who violates any provision of section 12005 shall be subject to a civil penalty of not more than \$10,000 for each violation.

#### **"SEC. 12010. EFFECTIVE DATE.**

"Except as provided in section 12008, this subtitle shall take effect 2 years after the date of its enactment."

"(b) **TABLE OF CONTENTS.**—The table of contents for such Act is amended by adding the following at the end thereof:

#### **"SUBTITLE K—BEVERAGE CONTAINER RECYCLING**

"Sec. 12001. Definitions.

"Sec. 12002. Required beverage containers labeling.

"Sec. 12003. Origination of refund value.

"Sec. 12004. Return of refund value.

"Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.

"Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.

"Sec. 12007. Exempted States.

"Sec. 12008. Regulations.

"Sec. 12009. Penalties.

"Sec. 12010. Effective date."

#### **THE NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1992—SECTION-BY-SECTION SUMMARY**

Section 1. Short Title. The National Beverage Container Reuse and Recycling Act of 1992.

Section 2. Findings.

Section 3. Amendment of Solid Waste Disposal Act to create new subtitle:

#### **SUBTITLE K—BEVERAGE CONTAINER RECYCLING**

Sec. 12001. Definitions. This section defines "beverage containers" covered in the Act as containers of less than one gallon constructed of glass, metal or plastic which contain beer, soft drinks, wine coolers, mineral water, or soda water. The section also defines "beverage retailers" and "beverage distributors".

Sec. 12002. Required Beverage Container Labeling. This section requires every bev-

erage container sold to include on it a statement indicating a refund value of 10 cents.

Sec. 12003. Origination of Refund Value. This section sets forth the manner by which distributors collect from retailers, and retailers collect from consumers, the 10 cent refund value for each container purchased by a consumer.

Sec. 12004. Return of Refund Value. This section sets forth the manner by which the consumer's deposit is refunded upon presentation to a retailer or distributor of an empty beverage container. This section also sets forth the manner by which a retailer receives from a distributor the refund value for beverage containers returned to the retailer, as well as a 2 cent per container handling fee, to compensate retailers for the added costs of accommodating returned containers. Finally, this section states that nothing in Subtitle K shall preclude agreements between retailers, distributors and other parties to centralize the collection, crushing or bundling of beverage containers.

Sec. 12005. Accounting for Unclaimed Refunds and Provisions for State Recycling Funds. This section establishes a system under which unclaimed refunds—the total of deposits not refunded—are provided to the State in which they were collected for pollution prevention and recycling programs within the State.

Sec. 12006. Prohibitions on Detachable Openings and Post-Redemption Disposal. This section prohibits the sale of beverage containers with detachable openings and the disposal of beverage containers with a refund value in a landfill or solid waste disposal facility.

Sec. 12007. This section exempts States from the provisions of the deposit system set forth in sections 12002 through 12005 and sections 12008 through 12009 if the states meet one of the following conditions: 1) a state has achieved a recycling rate for beverage containers covered under this Act of 70 percent or higher; or 2) a state has passed a law substantially identical to the deposit law contained in this Act.

Sec. 12008. Regulations.

Sec. 12009. Penalties.

Sec. 12010. Effective Date. This section sets forth the Act's effective date, which is two years after the date of enactment.

#### EXHIBIT 2

#### AN ECONOMIC AND WASTE MANAGEMENT ANALYSIS OF MAINE'S BOTTLE DEPOSIT LEGISLATION

(By Prof. George K. Criner, University of Maine; summary prepared by Container Recycling Institute, July 1991)

#### IMPACT ON RECYCLING

"The bottle bill has proven itself to be a generator of high quality, homogeneous recyclables. \*\*\* This \*\*\* clean recycled stream \*\*\* is well received by the recyclers."

"Bottle bills are capable of capturing a high percentage of the targeted materials \*\*\* an estimated 90% \*\*\* of beer and soda containers are returned for recycling."

"Much of Maine can be classified as rural. \*\*\* Bottle bills perform well in rural locations because of the convenience of retailer redemption."

"The growth of three UBC processing facilities within the state \*\*\* will undoubtedly provide momentum to further the growth of Maine recycling programs."

#### BUSINESS EFFECTS

"The handling fee is responsible for the opening of some 180 licensed redemption cen-

ters, and an unknown number of unlicensed centers. Many of these private enterprises are family-owned, family-run businesses."

The unredeemed deposits represent a significant source of revenue to distributors.

Distributors realize revenue from the sale of UBC materials.

The three intermediate UBC processing facilities "provide municipal recycling programs with the opportunity to market their material."

#### EMPLOYMENT OPPORTUNITIES

"\*\*\* jobs have been created through the process of collecting and processing of UBC's. One distributor—estimated a 20% increase in the distribution fleet and a 30% increase in warehouse staff, due to the bottle bill."

"The UBC processing facilities that exist in northern and southern Maine were established to handle the UBC's, opening more job opportunities for Maine people."

"Overall, the bottle bill has increased employment within the state."

#### ENVIRONMENTAL BENEFITS

Maine's expanded bottle bill is diverting an estimated 7% of the waste stream (98,000 tons)—80% more than the original bottle bill.

"A study conducted by Maine's Department of Transportation, found that, container litter [was] reduced by 56%."

The bottle bill encourages source reduction by providing an incentive for consumers to switch consumption to the more cost-efficient multiple-serve container and non-deposit beverages, such as frozen concentrates, which have a small amount of waste per product volume.

#### BEVERAGE CONTAINER DEPOSIT SYSTEMS IN THE UNITED STATES

(Container Recycling Institute, Washington, DC, January 1992)

#### INTRODUCTION

In the twenty years since Oregon implemented the first deposit law or "bottle bill" in 1972, deposit legislation has been proposed annually in Congress and in nearly every state in the U.S. In 1992, a national bottle bill will be considered as part of the reauthorization of the Resource Conservation and Recovery Act, and beverage container deposit bill will be introduced in at least 10 state legislatures.

Beverage container deposit laws were first introduced in the late 1960's primarily as a litter reduction and resource conservation measure. Over the past two decades they have proven effective not only in controlling litter and conserving energy and natural resources, but in reducing the waste stream as well. Although they made up just over 5% by weight of MSW generated, in 1988, they accounted for nearly 10 percent of all waste recovered in the U.S. according to the Environmental Protection Agency. Today deposit systems are being reevaluated as a waste management tool.

As the debate takes place in city councils, state legislatures, and in the U.S. Congress, the Container Recycling Institute will continue to conduct research on the economic and environmental implications of beverage container deposit systems and operate its International Clearinghouse for Deposit Legislation Information. We hope that this report proves valuable to both the public and private sectors in understanding and evaluating existing deposit laws in the U.S.

#### EXECUTIVE SUMMARY

Nine states have enacted container deposit legislation requiring minimum deposits on

beer, soft drink and other beverage containers. California enacted a law in 1986 which requires redemption payments on beer and soft drink cans and bottles. One local jurisdiction, Columbia, Missouri, currently has a deposit system in place.

Deposit laws provide a monetary incentive for returning beverage cans and bottles for recycling, employing a reverse distribution system originally created by the beverage industry to ensure the return of refillable bottles. Distributors and bottlers are required to collect a deposit (usually 5 or 10 cents) from the retailer on each can and bottle they sell. The retailer collects the deposit from the consumer, and reimburses the consumer when the container is returned to the store. The retailer collects the deposit from the distributor or bottler, completing the cycle.

Because additional costs are incurred in the handling of returned containers, all but two states require that the distributors and bottlers pay a handling fee (ranging from 1 to 2 cents) to retailers and redemption centers to offset these costs.

Consumers who choose not to return their cans and bottles lose their nickels and dimes, which then become the property of the distributors and bottlers. Maine, Massachusetts, and Michigan have passed escheat laws which require the unredeemed deposits to be collected by the state. Nearly every deposit law state has entertained such a proposal.

Most of the existing deposit laws have been amended to increase the handling fee, increase the deposit or extend the deposit to other container types. Maine's law, which is the most comprehensive in the nation, requires deposits on all beverage containers with the exception of milk.

Recovery rates for beverage containers covered under the deposit system depend on the amount of deposit and the size of the container. The overall recovery rate for beverage containers ranges from 75-93%. Reduction in beverage container litter after implementation of the deposit law ranged from 42-86%, and reduction in total litter volume ranged from 30-60%. Public approval ranges from 56% in Iowa (1979) to 90% in Michigan (1987).

Citizens in states with deposit laws appear to have ample opportunities to recycle through alternative programs including curbside recycling, buy backs and drop-off centers. Nine of the ten states with some form of deposit/refund system have curbside recycling programs serving anywhere from 10-80% of the population, with 6 of the states having curbside programs serving more than 25% of the population.

No deposit law has ever been repealed.

#### CALIFORNIA

Law/regulation, California Beverage Container Recycling and Litter Reduction Act.

Purpose, To encourage recycling and reduce littering.

Date signed, September 29, 1986.

Date implemented, September 1, 1987.

How enacted, Legislative process.

Attempt at repeal, None.

#### Provisions of the law

Containers covered, Beer, soft drinks, wine coolers, mineral water containers.

Amount of deposit, No deposit per se. Containers may be redeemed by consumers for 2.5 cents for containers <24 ounces and 5 cents for containers >24 ounces. Distributors pay 2 and 4 cents respectively into state fund.

Handling fee, Per container processing fee.

Financing, Administrative costs paid by unredeemed payments.

Unclaimed deposits, Unclaimed redemption payments go towards administration of the program, grants to nonprofits, publicizing the program and other recycling related programs, Convenience Incentive Payments (CIP's) for start-up costs or low volume centers.

Administering agency, Department of Conservation, Division of Recycling.

Reclamation system, State certified redemption centers which operate within and outside convenience zones, curbside programs, nonprofit drop-off centers and special events.

Other provisions, Deposits are not paid by consumers, retailers do not handle redemptions. Manufacturers pay redemption values which are used to pay consumer refunds and fund recycling education and litter abatement activities.

#### Documented data

Recovery rates, Aluminum, 88%,<sup>1</sup> Glass, 76%,<sup>1</sup> PET, 50%,<sup>1</sup> Overall, 84%.<sup>1</sup>

Reduction in beverage container litter, 42-45%.<sup>2</sup>

Reduction in total litter volume, N/A.

Public approval, N/A.

#### Amendments being considered

Proposals to include other containers and increase amount of redemption payment.

#### Complementary recycling programs

Curbside recycling programs serving 35% of population.

Nonprofit drop-off recycling programs.

Bar/restaurant collection programs.

Commercial collection.

#### Contacts

Ed Heidig, Division of Recycling, Department of Conservation, 1416 9th Street, Sacramento, CA 95814, Tel: 916/322-1080.

Rod Miller, NELC, 926 J Street, Suite 713, Sacramento, CA 95814, Tel: 916/448-4516.

#### CONNECTICUT

Law/regulation, Mandatory beverage container deposit law; beverage container deposit and redemption regulations.

Purpose, Provide economic incentives for consumers to return used beverage containers; encourage recycling and reuse.

Date signed, April 12, 1978.

Date implemented, January 1, 1980.

How enacted, Legislative process.

Attempt at repeal, None.

#### Provisions of the law

Containers covered, All refillable and non-refillable beer, malt carbonated soft drinks, and mineral water containers.

Amount of deposit, Minimum 5 cents.

Handling fee, Beer 1.5 cents, Soft drinks 2 cents.

Financing, No financing in original law.

Unclaimed deposits, Retained by distributors/bottlers.

Administering Agency, Department of Environmental Protection.

Reclamation system, Retail stores and/or redemption centers (they are privately owned, but registered).

Other provisions, Restrictions on metal containers; ban on detachable openings; ban on nondegradable 6-pack rings.

#### Documented data

Recovery rates, Cans 88%<sup>1</sup>; Glass 94%<sup>1</sup>; Plastic 70-90%<sup>2</sup>.

<sup>1</sup>California Department of Conservation, November, 1991.

<sup>2</sup>Ibid.

<sup>3</sup>"Can and Bottle Bills," California PIRG, P. 122.

<sup>4</sup>"Inventory of Beverage Deposit Systems Across North America," Quebec Ministry of the Environment, August 1991.

Reduction in beverage container litter, N/A.

Reduction in total litter volume, N/A.

Public approval, 64%.<sup>3</sup>

#### Contacts

William Delaney, Director, Education and Publications, Recycling Office, Bureau of Waste Management, 165 Capitol Avenue, Hartford, CT 06106, Tel: 203/566-5391 fax: 566-7932.

Rep. Mary Mushinsky, Environmental Committee, 3200 LOB State Capitol, Hartford, CT 06106, Tel: 203/240-0440.

#### DELAWARE

Law/regulation, Litter Control Act, beverage container regulation.

Purpose, Reduce litter.

Date signed, June 30, 1982.

Date implemented, Wholesale—1982/Retail—1983.

How enacted, Legislative process.

Attempt at repeal, None.

#### Provisions of the Law

Containers covered, All non-aluminum beer, malt, soft drink, and mineral water containers of <2 quarts.

Amount of deposit, 5 cents.

Handling fee, 20% of deposit.

Financing, None.

Unclaimed deposits, Unclaimed deposits remain the property of distributor/bottler.

Administering agency, Department of Natural Resources and Environmental Control.

Reclamation system, Retail stores and redemption centers.

Other provisions, This law is unique among beverage container deposit laws in exempting aluminum cans. This provision comes up for a vote on a regular basis and is due to expire in 1994 unless the legislature extends the exemption.

#### Documented Data

Recovery rates, N/A.

Reduction in beverage container litter, N/A.

Reduction in total litter volume, N/A.

Public approval, N/A.

#### Complementary Recycling Programs

Central processing facility that separate metal from other material. Buy-back centers.

Statewide drop-off system with 100 sites.

#### Amendments Being Considered

Capture of unclaimed deposits for state.

Permanent exemption for aluminum.

#### Contacts

Janet Manchester, Delaware DNREC, Waste Management Section, P.O. Box 1401, Dover, Delaware 19903, Tel: (302) 737-3820.

Carol Walsh, League of Women Voters of DE, 25 The Horseshoe, Covered Bridge Farm, Newark, DE 19711, (302) 731-5487.

#### IOWA

Law/regulation, Beverage Container Deposit Law.

Purpose, Control of littering.

Date signed, May 12, 1978.

Date implemented, July 1, 1979.

How enacted, Legislative process.

Attempt at repeal, None.

#### Provisions of the law

Containers covered, Refillable and non-refillable beer, soft drink, wine and liquor containers.

Amount of deposit, 5 cents.

Handling fee, 1 cent.

Financing, No financing in original law.

Unclaimed deposits, Retained by distributors/bottlers.

Administering agency, Department of Natural Resources.

Reclamation system, Retailers and private redemption centers.

Other provisions, None.

Unclaimed deposits, Retained by distributors/bottlers.

Administering agency, Department of Natural Resources.

Reclamation system, Retailers and private redemption centers.

Other provisions, None.

#### Documented data

Recovery rates, Aluminum, 95%,<sup>1</sup> Glass, 85%,<sup>1</sup> Plastic 70-90%.<sup>2</sup>

Reduction in beverage container litter, 79%.<sup>3</sup>

Reduction in total litter volume, 61%.<sup>4</sup>

Public approval, 56%.<sup>5</sup>

#### Amendments being considered

Iowa PIRG has proposed raising the deposit to 10 cents.

#### Complementary recycling programs

Curbside recycling in 35 locations 60% of population has access to either curbside or drop-off recycling.

#### Contacts

Bob Meddaugh, Department of Natural Resources, Waste Management Authority Division, 900 E. Grand Street, Des Moines, IA 50319, Tel: 515/281-8499.

Jim Dubert, Iowa PIRG, Room 37 Memorial Union, Ames, IA 50010, Tel: 515/770-2634.

#### MAINE

Law/regulation, Maine Returnable Beverage Container Law.

Purpose, Reduce litter and solid waste generation, create incentives for recycling and reuse.

Date implemented, 1978. Expanded in 1990 to include distilled spirits, wine, juice, water and other noncarbonated beverages.

How enacted, Initiative Referendum, November 2, 1976.

Attempt at repeal, Yes, 1979 Initiative to repeal law failed by 84% to 16%.

#### Provisions of the law

Containers covered, All refillable and non-refillable beer, soft drink, wine, wine cooler, liquor, juice, tea, and water containers.

Amount of deposit, Beer/soft drink/juice, 5 cents, wine/liquor, 15 cents.

Handling fee, 3 cents per container.

Financing, No financing in original law.

Unclaimed deposits, State receives 50% of unclaimed deposits, which goes to Maine Solid Waste Management Fund.

Administering agency, Department of Agriculture, Food, and Rural Resources, Division of Regulations.

Reclamation system, Retail stores and/or redemption centers, (privately operated, and licensed).

Other provisions, Ban on composite material/aseptic beverage packaging, identification of plastic resin is mandatory, restrictions on plastic 6-pack rings, dealers may refuse containers they have not sold, or which are damaged or uncleaned.

#### Documented data

Recovery rates, Beer/soft drinks, 92%,<sup>1</sup> distilled spirits, 80%,<sup>1</sup> wine, 80%,<sup>1</sup> juice/other noncarbonated beverages, 75%.<sup>1</sup>

<sup>1</sup>Bob Meddaugh, Recycling Coordinator, Iowa Department of Natural Resources, July 1991.

<sup>2</sup>"Inventory of Beverage Deposit Systems Across North America," Quebec Ministry of the Environment, August 1991.

<sup>3</sup>Survey by Iowa Department of Transportation, 1980 from "Can and Bottle Bills," California PIRG, 1980 p. 116.

<sup>4</sup>Ibid.

<sup>5</sup>"Des Moines Register," 1979, from "Can and Bottle Bill," p. 113.

<sup>6</sup>Denise Lord, Maine Waste Management Agency, September 1991.

Reduction in beverage.  
Container litter, 86%.<sup>2</sup>  
Reduction in total.  
Litter volume, 40%.<sup>3</sup>  
Public approval, 84%.<sup>4</sup>

#### Amendments being considered

None.

#### Complementary recycling programs

Curbside recycling programs serving 14% of population.  
Drop-off recycling program serving 55% of population.

#### Contacts

Denise Lord, Maine Waste Management Agency, State House Station 154, Augusta, Maine 04333, Tel: (207) 289-5300.

Stan Eller, Natural Resources Council of ME, 271 State Street, Augusta, ME 04330, Tel: (207) 622-3101.

#### MASSACHUSETTS

Law/regulation, Beverage Control Recovery Law (Bottle Bill).

Purpose, Provide economic incentives for consumers to return used beverage containers; encourage conservation of materials and energy through recycling and reuse.

Date signed, November 16, 1981.

Date implemented, January 6, 1983.

Now enacted, Legislative process. Became law by referendum when industry succeeded in putting it on ballot in 1982.

Attempt at repeal, Yes, initiative to repeal in 1982 failed.

#### Provisions of the law

Containers covered, All refillable and non-refillable beer, soft drink carbonated water containers.

Amount of deposit, 5 cents.

Handling fee, 2.25 cents per container.

Financing, No financing in original law.

Unclaimed deposits, Originally, unredeemed deposits remained with distributors/bottlers. Escheat provision passed in 1989. Since 1990, unclaimed deposits have been property of government. Money goes to General Fund but by 1995, 100% of unclaimed deposits will go to Clean Environment Fund for environmental programs. The escheat provision was upheld by Suffolk County Superior Court and industry has appealed the decision.

Administering agency, Department of Environmental Protection.

Reclamation system, Retail stores, redemption centers.

Other provisions, None.

#### Documented data

Recovery rates, 85% overall (estimated).<sup>1</sup>

Reduction in beverage container litter, N/A.

Reduction in total litter volume, 30-35%.<sup>2</sup>

Public approval, 78%.<sup>3</sup>

#### Amendments being considered

Amendment to allow retailers, distributors, and bottlers to refuse to pay refund and handling fees for empty containers not purchased in MA.

#### Complementary recycling programs

Curbside recycling programs in 54 localities.

Drop-off locations in 249 localities.

Buy-back centers.

Massachusetts Reduction and Recycling Act (will be on ballot in 1992) requires environmentally acceptable packaging by 1996. Packaging must conform to one of five standards: Use 25% less material over five years; be reusable a minimum of five times; contain 25% recycled content material by weight, increasing to 35% in 1999 and 50% by 2002; and be recycled at a rate of 50%.

#### Contacts

Julie Bender, Division of Solid Waste Management, Department of Environmental Protection, 1 Winter Street, 4th Floor, Boston, Massachusetts 02108, Tel: (617) 292-5980; Fax: (617) 556-1049.

Amy Perry, MASS PIRG, 29 Temple Place, Boston, MA 02111, Tel: (617) 292-4800.

#### BEVERAGE CONTAINER DEPOSIT SYSTEMS IN THE UNITED STATES

State/city	Date implemented	Containers covered	Amount of deposit	Redemption rate	Reclamation system	Unclaimed deposits	Handling fee	Complementary programs
California	1987	Beer/soft drink, wine coolers, mineral water.	2.5 cents <24 ounces, 5 cents >24 ounces.	Aluminum, 88 percent; glass, 76 percent; PET, 50 percent; overall, 84 percent.	State certified redemption centers.	Used for administration of the program and grants to non-profits.	Per container processing fee.	Curbside recycling for 35 percent of population, non-profit drop-off/bar/restaurant/commercial collection.
Connecticut	1980	Beer/malt/soft drinks, mineral water.	Minimum 5 cents	Cans, 88 percent; bottles, 94 percent; plastic, 70-90 percent.	Retail stores and redemption centers.	Retained by distributor/bottler.	Beer 1.5 cents, soft drink 2 cents.	Statewide recycling program serving 80 percent of population.
Delaware	1982-1983	Non-aluminum/beer, malt/soft drink, mineral water <2 qt.	5 cents	N/A	Retail stores and redemption centers.	Retained by distributor/bottler.	20 percent of deposit	Statewide drop-off system with 100 sites, buy-back centers, central processing center which separates metal from recyclables.
Iowa	1979	Beer/soft drink, wine/liquor.	5 cents	Aluminum, 95 percent; glass, 85 percent; plastic, 70-90 percent.	Retail stores and redemption centers.	Retained by distributor/bottler.	1 cent	60 percent of population has access to either curbside or drop-off recycling.
Maine	1978	Beer/soft drink, wine/wine cooler, liquor/juice, water and tea.	Beer/soft drink and juice, 5 cents; wine/liquor 15 cents.	Beer/soft drink, 92 percent; distilled spirits, 80 percent; wine, 80 percent; juices/other non-carbonated, 75 percent.	Retail stores and redemption centers.	State receives 50 percent	3 cents	Curbside recycling serving 14 percent of population. Drop-off programs serving 55 percent of population.
Massachusetts	1983	Beer/soft drink, carbonated water.	5 cents	Overall, 85 percent	Retail stores and redemption centers.	Property of Government since 1990.	2.25 cents	Curbside recycling in 54 localities, drop-off in 249 localities, buy-back centers.
Michigan	1978	Beer/soft drink, canned cocktails, carbonated and mineral water.	Refill 5 cents, non-refill 10 cents.	Overall, 93 percent	Retail stores	75 percent for environmental programs, 25 percent for a handling fee.	25 percent of unclaimed deposits.	Curbside recycling to 25 percent of population. Drop-off centers in 20 percent of localities.
New York	1983	Beer/soft drink, wine coolers/carbonated mineral water, soda water.	5 cents	Soft drink, 66 percent; beer, 79 percent.	Retail stores and redemption centers.	Retained distributor/bottler.	1.5 cents	Curbside program serving 44 percent of population, drop-off centers in 75 percent of localities.
Oregon	1972	Beer/malt/soft drink, carbonated mineral water.	Standard refill 3 cents, non-refill and non-standard refill 5 cents.	Overall, 85 percent	Retail stores	Retained by distributor/bottler.	None	Buy back centers curbside in all but 2 localities of 4000 or more. Drop-off centers virtually everywhere.
Vermont	1973	Soft drink/beer, malt/mineral water, liquor.	soft drink/beer 5 cents, liquor 15 cents.	Overall, 85 percent	Certified redemption centers, retail stores.	Retained by distributor/bottler.	3 cents	Curbside programs serving 20 percent of population. Drop-off centers in 95 percent of localities.
Columbia, Mo	1982	Beer/soft drinks/malt, carbonated mineral water.	5 cents	Overall, 85-95 percent	Retail stores	Retained by distributor/bottler.	None	Curbside recycling program.

<sup>2</sup>ME Department of Highways, 1980, "Environmental Action Foundation Briefing Papers."

<sup>3</sup>Ibid.

<sup>4</sup>Results of Maine Repeal Referendum, 1979.

<sup>1</sup>Massachusetts Department of Environmental Protection, from reports by beer and soda distributors, Julie Bender, September, 1991.

<sup>2</sup>"The Can and Bottle Bill, Fact and Fiction," New Jersey PIRG, 1985, p. 8.

<sup>3</sup>Results of Massachusetts Repeal Referendum.

## GOVERNMENT CONTACTS

## California

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## Connecticut

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## Delaware

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## Iowa

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## Maine

Denise Lord, ME Waste Management Agency, State House Station 154, Augusta, ME 04333, Tel: (207) 289-5300.

## Massachusetts

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## Michigan

Resource Recovery Section, Waste Management Division, Dept. of Natural Resources, P.O. Box 30038, Lansing, MI 48909, Tel: (517) 373-4741.

## New York

William Mirabile, Bureau of Waste Reduction and Recycling, Division of Solid Waste, Dept. of Environmental Conservation, 50 Wolf Road, Albany, NY 12233, Tel: (518) 457-7337.

## Oregon

Peter Spendelow, Solid Waste Reduction Section, Dept. of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204-1390, Tel: (503) 229-5253.

## Vermont

Al Morrison, VT Agency of Natural Resources, Solid Waste Management Division, 103 South Main St. West Building, Waterbury, VT 05676, Tel: (802) 244-7831.

## Columbia, MO

Michael R. Sanford, Columbia/Bloom County Health Dept., P.O. Box N, Columbia, MO 65205, Tel: (314) 874-7345.

## MICHIGAN

Law/regulators, Michigan's Beverage Container Act.

Purpose, To reduce roadside litter; clean up the environment and conserve energy and natural resources.

Date implemented, December 3, 1978.

How enacted, Initiative, November 2, 1976. Attempt at repeal, None.

## Provisions of the law

Containers covered, All refillable and non-refillable beer, soft drink, canned cocktails, carbonated and mineral water containers.

Amount of deposit, Refillables, 5 cents; non-refillables, 10 cents.

Handling fee, None in original law. If the "unclaimed deposits" amendment (see below) is upheld, 25% of unclaimed deposits will go toward a handling fee.

Financing, No financing in original law.

Unclaimed deposits, 1989 Amendment called for 75% of unclaimed deposits to go for environmental programs. In 1991, the Michigan court system declared this to be unconstitutional. The case is currently being appealed by the state.

Reclamation system, Retail stores. Administering agency, Michigan Department of Natural Resources. Other provisions, None.

## Documented data

Recovery rates, 93% overall.<sup>1</sup> Reduction in beverage container litter, 80%.<sup>2</sup>

Reduction in total litter volume, 41%.<sup>3</sup>

Public approval, 90%.<sup>4</sup>

## Amendments being considered

None.

## Complementary recycling programs

Curbside recycling programs for 25% of population. Drop-off programs in 20% of localities.

## Contact

Wayne Koser, Resource Recovery Section, Waste Management Division, Department of Natural Resources, P.O. Box 30038, Lansing, Michigan 48909, Tel: (517) 373-4741.

Tom Washington, MI United Conservation Clubs, 2101 Wood Street, P.O. Box 30235, Lansing, MI 48909, Tel: (517) 371-1041.

## NEW YORK

Law/regulation, Environmental Conservation Law, Article 27, Title 10, Litter and Solid Waste Control, Regulations: Beverage Container (6NYCRR, part 367).

Purpose, Reduction of littering and benefits to solid waste management.

Date signed, June 15, 1982.

Date implemented, July 1, 1983 to September 1, 1993.

How enacted, Legislative process.

Attempt at repeal, Beverage industry tries to overturn law annually.

## Provisions of the law

Containers covered, All refillable and non-refillable beer, soft drink, wine cooler, carbonated mineral and soda water containers.

Amount of deposit, Minimum 5 cents.

Handling fee, 1.5 cents per container.

Financing, No financing in original law.

Unclaimed deposits, Retained by industry. Reclamation system, Retail stores, municipal and private redemption centers.

Administering agency, New York Department of Environmental Conservation.

Other provisions, None.

## Documented data

Recovery rates, Soft drink, 66%.<sup>1</sup> Beer, 79%.<sup>1</sup>

Reduction in beverage container litter 70-75%.<sup>2</sup>

Reduction in total litter volume, NA.

Public approval, 80%.<sup>3</sup>

## Amendments being considered

Proposed increase in handling fee (to 2.5 cents).

Proposal for government to take 100% of unredeemed deposits.

Possible increase in deposits for containers >.5 litre.

Expansion to other containers (wine, liquor and non-carbonated drinks).

## Complementary recycling programs

Solid Waste Management Act of 1988 requires all municipalities to have source separation by September 1, 1992.

<sup>1</sup>"Unclaimed Beverage Container Deposits: An Update," James Webster and Peter Pratt, Public Sector consultants, Cal PIRG, 1980, p. 100.

<sup>2</sup>Survey by Michigan Department of Transportation from "Can and Bottle Bills," p. 100.

<sup>3</sup>Ibid.

<sup>4</sup>Michigan United Conservation Club's poll of registered voters, 1987.

<sup>5</sup>N.Y. State Department of Environmental Quality letter dated Aug. 24, 1990.

<sup>6</sup>Quebec Ministry of Environment, "Inventory of Beverage Deposit Systems Across North America," August 1991.

<sup>7</sup>Poll by Fund for City of New York, 1985.

Curbside recycling programs in 145 localities serving 44% of population. Drop-off centers in 75% of localities.

## Contacts

William Mirabile, Bureau of Waste Reduction and Recycling, Division of Solid Waste, N.Y. State Dept. of Environmental Conservation, 50 Wolf Road, Albany, New York 12233, Tel: (518) 457-7337 Fax: (518) 457-1283.

Jay Halfon, New York PIRG, 9 Murray Street, New York, NY 10007, Tel: (212) 349-6460.

## OREGON

Law/regulation, Oregon Beverage Container Act (Bottle Bill).

Purpose, To reduce litter and increase recycling.

Date signed, June 2, 1971.

Date implemented, October 2, 1972.

How enacted, Legislative process.

Attempt at repeal, None.

## Provisions of the law

Containers covered, All refillable and non-refillable beer, malt, soft drink, carbonated and mineral water containers.

Amount of deposit, Standardized refillable bottles, 3 cents, non-refillables and non-standard refillable bottles, 5 cents.

Handling fee, None.

Financing, No financing in original law.

Unclaimed deposits, Distributors retain unredeemed deposits and the value of scrap material, as well as short term investments on the deposits collected.

Reclamation system, Retail stores. Reclamation centers allowed by law, but none exist as there is no handling fee.

Administering agency, Oregon liquor Control Commission.

Other provisions, Ban on detachable pull tabs, Ban on nondegradable 6-pack rings.

## Documented data

Recovery rates, 93% overall (estimated).<sup>1</sup> Reduction in beverage container litter, 83%.<sup>2</sup>

Reduction in total litter volume, 47%.<sup>3</sup> Public approval, 90%.<sup>4</sup>

## Amendments being considered

None.

## Complementary recycling programs

Recycling Opportunity Act has resulted in curbside recycling programs in all but 2 cities of 4,000 or more in population and drop-off centers virtually everywhere. Buy-back center.

## Contacts

Peter Spendelow, Solid Waste Reduction Section, Dept. of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204-1390, Tel: (503) 229-5253 Fax: (503) 229-6124.

Lauri Aunan, Oregon PRIG, 1536 SE 11th Street, Portland, OR 97214, Tel: (503) 231-4181.

## VERMONT

Law/regulation, Beverage Container Law (1973), Solid Waste Act (1987).

Purpose, Reduction of littering.

Date signed, April 7, 1972.

Date implemented, July 1, 1973, July 1989 expanded to wine coolers, January 1990 expanded to liquor.

How enacted, Legislative process.

Attempt at repeal, None.

## Provisions of the law

Containers covered, All refillable and non-refillable soft drink, beer, malt, mineral water, and liquor containers.

<sup>1</sup>Peter Spendelow, Oregon Department of Environmental Quality, September 1991.

<sup>2</sup>"Oregon's Bottle Bill: The 1982 Report" OR Dept. of Environmental Quality, p. 3.

<sup>3</sup>Ibid.

<sup>4</sup>Seattle Post-Intelligence, from "Can and Bottle bills," Cal PIRG, p. 59.

Amount of deposit, Beer/soft drink, 5 cents, liquor >50ml 15 cents.  
 Handling fee, 3 cents per container.  
 Financing, No financing in original law.  
 Unclaimed deposits, Retained by industry.  
 Reclamation system, Retail stores, certified redemption centers and state liquor stores.

Administering agency, Self administered by beverage industry with oversight by the Vermont Agency of Natural Resources, Vermont Department of Liquor Control oversees liquor container redemption. Also operates under Title 10 USA Chapter 53.  
 Other provisions, None.

#### Documented data

Recovery rates, 85% overall.<sup>1</sup>  
 Reduction in beverage container litter, 76%.<sup>2</sup>  
 Reduction in total litter volume, 35%.<sup>3</sup>  
 Public approval, 97%.<sup>4</sup>

#### Amendments being considered

Amendment being proposed by Vermont PIRG which would take unclaimed deposits retroactively to 1973, and give them to the state.

Amendment being proposed by soft drink industry which would repeal deposit law in Windham County for two years.

#### Complementary recycling programs

Recycling programs in 130 localities serving 20% of state's population.  
 Curbside programs in 12 localities serving 10% of state's population.  
 Drop-off programs in 95% of localities.

#### Contacts

Al Morrison, VT agency of Natural Resources, Solid Waste Management Division, 103 South Main Street West Building, Waterbury, Vermont 05676, Tel: (802) 244-7831 Fax: (802) 244-5141.

Joan Mulhern, Vermont PIRG, 43 State Street, Montpelier, VT 05602, Tel: (802) 223-5221.

#### COLUMBIA, MO

Law virgule regulation, Columbia's Beverage Container Deposit Ordinance.

Purpose, Reduce littering, save the city money, increase recycling, create local jobs and save energy.

Date implemented, 1982.

How enacted, Initiative, April 1977.

Attempt at repeal, Many, enforcement of law blocked July 1977; initiatives-law upheld, November 1981, November 1982, November 1988.

#### Provisions of the law

Containers covered, Beer, malt, carbonated/mineral waters, soft drinks.

Amount of deposit, 5 cents.

Handling fee, None.

Financing, No financing in original law.

Unclaimed deposits, Retained by industry.

Administering agency, Director of Health Services of City of Columbia.

Reclamation system, Retail stores.

Other provisions, Unique in being the only municipal bottle bill.

#### Documented data

Recovery rates, 85-95% overall.<sup>1</sup>

Reduction in beverage container litter, NA.

Reduction in total litter volume, NA.

Public approval, 68%.<sup>2</sup>

#### Amendments being considered

Proposal to implement a handling fee.

#### Complementary recycling programs.

Curbside recycling program.

#### Contacts

Charles Atkins, Missourians Against Throwaways, 2700 Malibu G., Columbia, MO 65203, Tel: (314) 445-5470.

Michael R. Sanford, Columbia/Bloom County Health Department, P.O. Box N, Columbia, Missouri 65205, Tel: (314) 874-7345.

#### STATUS OF RECYCLING IN DEPOSIT LAW STATES

	CA	CT	DE	IA	MA	ME	MI	NT	OR	VT
Localities with existing curbside programs	344	135	0	35	54	12	150	145	(1)	12
Population served by curbside collection of mixed recyclables (percent)	35	80	0	10 to 12	40	14	25	44	75	10
Localities with drop-off centers	800	34	100	40 percent	249	37 percent	20 percent	75 percent	Nearly all	95 percent
Do localities remove deposit containers and redeem deposits?	All	Yes-2	No	Yes-2	(7)	No	All	Yes for charity	No	No
Statewide recycling goal (percent)	25 by 1995	25	NA	25 by 1994	46	50 by 1994	20 to 30 by 2005	50 by 1997	50 by 2000	40 by 2000
Statewide recycling rate (percent)	NA	NA	6	10	NA	17	13 to 14	8 to 10	25	18
Incinerators in operation	3	5	0	1	8	4	15	16	3	2
Incinerators planned for next 5 years	1	3	2 to 3	1	1	0	2 to 3	5 to 8	0	1
Range of tipping fees	\$1.00	\$25 to \$100	\$43 to \$49	\$6 to \$40	\$12 to \$65	\$10 to \$55	\$15 to \$48	0 to \$110	0 to \$68	\$50 to \$75
Average tipping fee	NA	\$50	\$45	\$25 to \$30	\$45	\$36	\$30	\$55 to \$60	\$55	\$55

<sup>1</sup> All but 2 localities with population of 4,000 or more.

This report on beverage container deposit/refund systems in the United States, compiled by the Container Recycling Institute (CRI), was made possible by a grant from the Beldon Fund. CRI is indebted to the government and public interest contacts listed on subsequent pages for their cooperation and patience in assisting with this project, and to our intern, Judy Firebaugh who conducted the research.

#### EXHIBIT 3

[From the Harvard Business Review, September-October 1991]

#### KNEE-DEEP AND RISING: AMERICA'S RECYCLING CRISIS

(By George C. Lodge and Jeffrey F. Rayport)

At a time when the United States is running short of landfill capacity and local communities, states, and regions face mounting costs and critical environmental choices, the issue of plastics recycling epitomizes a fundamental problem for the nation. It confronts business and government leaders with a critical question: Can the two sides move beyond the old adversarialism of the past to a constructive, problem-solving relationship that benefits both sides and offers the country a new path for dealing with difficult environmental problems?

Currently, both sides seem mired in an unfortunate combination of good intentions

and failed systems. Two stories capture the sense of chaos that pervades the recycling of plastics in the United States.

The first is a recent comedy of errors played out in Minneapolis, Minnesota, where the city council passed a far-reaching but poorly conceived measure that effectively banned all plastic packaging from the shelves of the city's supermarkets. As the Minneapolis example will demonstrate, when government insists on exercising its authority without finding a way for business to supply its competence, chaos and confusion result.

The second, McDonald's decision to abandon polystyrene "clamshell" packaging for its hamburgers in favor of plastic-coated paper, illustrates the ineffective and inefficient results that occur when a business exercises its unique competence without relying on the government to supply its system-wide authority. The solution to the country's solid-waste crisis lies in the combination of authority and competence and in the creation of a new public-private forum where the two sides cooperate.

#### MINNEAPOLIS

In December 1988, Stephen Cramer, a bright, young city councillor proposed Chapter 204 of the Minneapolis Code of Ordinances, a measure requiring that all food products sold within the city limits be

packaged in an "environmentally acceptable" manner. According to the definition in the ordinance, environmentally acceptable meant returnable or recyclable packaging. The ordinance would go into effect one year from passage.

The idea for the ordinance, Cramer explained, had originated with his environmentally minded constituents who were complaining about the lack of choice in their supermarkets when it came to packaging. Heinz ketchup bottles; for example, used to come in both plastic and glass; now plastic was the only option. In recycling-conscious Minneapolis, the city had already set up programs to recycle glass, paper, and aluminum, so the only packaging directly affected by Cramer's ordinance was plastics.

It took the business community two months to figure out the serious threat implicit in the proposed Minneapolis ordinance. If the measure could pass in Minneapolis, it could pass in other communities; it could become a new cause. Moreover, the ordinance was not a trivial exercise. Consultants hired by the city estimated that it would cover 14,000 items on supermarket shelves—everything from Dannon yogurt to Doritos tortilla chips, from the local dairy's milk jugs to the butcher's fresh-wrapped meat. Wrapped in

<sup>1</sup> "Effect of Vermont Beverage Container Deposit", report by Vermont Agency of Natural Resources, 1988, p.2.

<sup>2</sup> "Vermont 5 cent Deposit: A Report on Vermont's Experience with Beverage Container Deposit Legis-

lation", VT Agency for Environmental Conservation.

<sup>3</sup> "Can and Bottle Bills", New Jersey PIRG, p.8.

<sup>4</sup> Poll conducted by U.S. Representative James Jeffords, in Vermont Standard, April 30, 1981.

<sup>1</sup> Charles Atkins, Missourians Against Throwaways, September, 1991.

<sup>2</sup> Results of 1988 Repeal Referendum.

plastic, all would have to be either repackaged or pulled from Minneapolis stores.

Local companies such as General Mills and Quaker Oats began to mobilize to defeat the measure. The plastics industry activated its research and lobbying organization—the Council for Solid Waste Solutions [CSWS]—and dispatched a top Washington, D.C. lobbyist to Minneapolis. Predictably, the industry launched an antiordinance media blitz. In newspaper ads, radio spots, and flyers in grocery bags, the industry portrayed Cramer as a wild-eyed liberal, sacrificing local commerce in the name of dubious environmental gains and warned that the ban would take food off the tables of innocent citizens.

Just as predictably, the industry campaign backfired. Public opinion, divided before the blitz, coalesced solidly behind Chapter 204. The proud citizens of Minneapolis did not like the idea of arrogant political pros from the plastics industry telling them how to think and what to do. Minneapolis has had a long-standing reputation as a progressive city, and the ordinance gave people a chance to go on record a law that many officials in the city government considered unenforceable. The city's consultants reported that when they went for a walk in a local supermarket to think about the enforcement issue, they "just started to laugh." The city council could instruct the understaffed health department to make a gesture at enforcing the law or order it to crack down and send Minneapolis food buyers to stores outside the city limits. The city council needed help.

At last, both the government and the industry arrived at the same conclusion: somehow, plastics had to be made legal under the new law. CSWS technical experts joined government representatives, environmental groups, and the community on the advisory committee established by the ordinance to work out deadlines and implementation details. The committee agreed to defer application of the ordinance for one additional year. CSWS set up several state-of-the-art recycling pilot programs and loaned the city a special \$100,000 plastics-collection vehicle. Once the pilot programs demonstrated that plastics were recyclable, they became environmentally acceptable under the terms of the ordinance. Both sides could breathe a deep sigh of relief; a crisis had been averted.

But a question remained: Had Minneapolis achieved a net gain for the environment? By early 1990, pilot programs in the city and in surrounding Hennepin county had reached only 28,000 households. Despite aggressive public education programs, citizen participation rates—the proportion of people who actually sorted their garbage to permit recycling—ranged from a paltry 22% to a modest 62%. By late 1990, these programs were expanded citywide, and early results seemed favorable. But there was a problem. Neither the city nor the surrounding county had created an economic infrastructure to process recyclables. Thanks to infighting among the city, the county, and local businesses, there was no materials reclamation facility (MRF)—the facility required to sort, clean, and prepare plastics for resale to end users. Without a MRF, plastics couldn't be resold for reuse. With no connection to the marketplace, Minneapolis couldn't derive revenues to offset the cost of the recycling program. And, of course, if the plastics were never converted to new products, there was no environmental gain—the plastics would still be disposed of as garbage.

Even with Chapter 204 on the books, Mother Nature was not doing much better. The

city was collecting some plastics (all plastic bottles) in the name of recycling. But without an efficient infrastructure and with a lot of extra activity, the environment might have been doing even a little worse.

#### MCDONALD'S

In the summer of 1990, McDonald's management faced its own test of environmental acceptability. For almost four years, the company had promoted the recycling of its polystyrene hamburger clamshells. In response to criticism, McDonald's argued that its polystyrene containers were the most environmentally responsible packaging solution. This was a claim that consumer groups such as the Citizens' Clearinghouse on Hazardous Waste found hard to buy: the National Toxics Campaign, an enthusiastic follower of CCHW's lead, even urged schoolchildren to write "Ronald McToxic" about his bad food packaging. And children responded, writing heartfelt letters about the polystyrene that they believed jeopardized their future environmental health and mailing back used hamburger containers.

Over the years, McDonald's had handled many such attacks. The company could marshal sound, well-researched reports by credible outside think tanks to support its use of the clamshell containers. And McDonald's had moved to bolster these claims by preparing to institute a national plastics recycling program at its 8,500 U.S. Restaurants. In 1990, the company initiated a pilot program to recycle polystyrene at its 450 New England restaurants and announced a decision to work with the newly created National Polystyrene Recycling Corporation, a critical link in the emerging U.S. Polystyrene recycling infrastructure.

That summer, as McDonald's moved cautiously toward extending its recycling program, the company was approached by the Environmental Defense Fund [EDF], which offered to work with management to develop an overall plan to improve the company's environmental management practices. By the fall, the two sides had begun to focus on McDonald's plastics recycling initiatives.

To the EDF, the opportunity was great: not only could it push ahead on a nationwide recycling program but it could also advance a massive public awareness and education campaign. A national McDonald's recycling program would constitute, in effect, the largest public environmental education project in U.S. history. Every day, 18 million Americans—more than 7% of the population—eat at McDonald's. McDonald's customers are a national cross section—young and old, rich and poor, salaried and working class—a more varied sample of the American public than all the environmental groups' mailing lists combined. And just by going into McDonald's, consumers would be learning firsthand about plastics recycling; they would be participating.

At the same time that EDF saw the opportunity, it also recognized the problems, as did McDonald's. The hard truth was that the New England pilot program was not working well, supporting EDF's growing concerns about the viability of polystyrene recycling as a way to minimize consumer waste.

The plan called for customers to sort their refuse into two simple categories: polystyrene and everything else. McDonald's would then ship the sorted foam plastics to a small, start-up plastics reclaimer, Plastics Again, to be cleaned and processed for resale. But practice did not follow the plan.

For one thing, customers were either unwilling or unable to follow the seemingly straightforward directions; Plastics Again

received shipments that were too impure to process economically. To solve this problem, McDonald's faced the prospect of having to ask its franchisers to work longer hours to resort the trash into purer refuse streams. The expectation was that franchise employees, eager to make the system work, would cooperate and help the program succeed. But the plan was destined to founder on a second problem: even under the best of circumstances with full customer participation, the flow was too small to make the effort worthwhile in economic or environmental terms. With 60% to 70% of McDonald's customers taking their food away from the restaurants, there simply would not be enough polystyrene waste to make the program go.

But before McDonald's could attempt to overcome these two obstacles, Massachusetts dealt the program a fatal blow. State inspectors threatened to rezone Plastics Again from a processor to a garbage transfer station because of the trash it was handling from McDonald's restaurants, which meant Plastics Again faced the loss of critical tax benefits. An off-site, third-party handler that could accept the unsorted garbage might have solved the problem, but none existed in the area. There was no workable solution.

Just one week after McDonald's had reportedly been prepared to announce the national rollout of its polystyrene recycling program, the company made a dramatic about-face. The polystyrene clamshell was out; a new quilted paper-plastic substitute was in. In a terse announcement, the company said that it was only responding to the dictates of its customers.

While experts disagreed on the overall environmental impact of the decision, the lighter weight of the quilt wrap would clearly achieve the EPA-mandated goal of source reduction by shrinking the weight and volume of McDonald's waste going to landfills by as much as 70% with no recycling. (The new wrapper could not be recycled or composted efficiently at the time.) But there were other implications as well. McDonald's decision represented a decisive weakening of the emerging foam-plastics recycling infrastructure. As one of the nation's largest suppliers of polystyrene waste, McDonald's had been a critical element in the supply and demand equation: recycling companies would make the investments to process polystyrene only if they were assured a steady, reliable supply. McDonald's sudden departure represented a rupture in the supply line and reduced the likelihood that investments would be made. Gone, at least for the time being, was the massive recycling education program that could have been located at each McDonald's franchise. The company had been unable to find a workable solution. It had tried to do the right thing, only to be thwarted by the absence of a system wide plan and infrastructure to support its individual initiatives.

#### SO WHAT

These two stories illustrate a situation that is pervasive in the United States today. When it comes to plastics recycling, business, government, and environmental groups are all trying to do the right thing, but somehow the results turn out to be disappointing. In Minneapolis, authority without competence proved unworkable; with McDonald's and the EDF, competence without authority proved frustrating. In both cases, uncoordinated laws, uncertain and unreliable standards, and hit-or-miss initiatives served only to waste time, materials, energy, and scarce political capital. Recy-

cling pursued according to current practices in the United States often results in everyone losing—not only government, business, and local communities but also the environment. And the problem is only getting worse.

The facts are undeniable. Because the United States is running out of landfill space, Americans will simply not be able to put the 180 million tons of solid waste they generate each year into landfills, where 70% of it now goes. Since 1979, the United States has exhausted more than two-thirds of its landfills; projections indicate that another one-fifth will close over the next five years. Between 1983 and 1987, for example, New York closed 200 of its 500 landfills; this year Connecticut will exhaust its landfill capacity. If the problem seemed abstract to Americans, it became odiously real in the summer of 1989 as most of the nation watched the notorious garbage barge from Islip, New York wander 6,000 miles, searching for a place to dump its rancid 3,100-ton load.

As part of the landfill problem, plastics are relatively benign—they neither degrade nor cause serious leachate problems. But they do take up a lot of space. Plastics constitute only 8% of municipal solid waste by weight, but 18% by volume. Moreover, based on industry predictions that worldwide consumption of plastics will grow 50% during the 1990's, it is likely that their weight and volume proportion in the waste stream will grow. Much of this growth will come in the form of packaging—the single largest use of plastics in the United States—which consumes almost one-third of the six million tons of plastics produced each year.

Recognizing the seriousness of the problem, some companies have stepped in to play a leadership role. For example, in March 1991, CSWS members, led by Edgar S. Woolard, chairman of Du Pont, and John E. Pepper, president of Procter & Gamble, announced a council program to extend plastics recycling to 5,000 communities (from the 500 currently recycling plastics at curbside) and to ensure that by 1995, 25% of all plastic bottles and containers used in the United States will be recycled (from about 6% in 1991). In part, the announcement demonstrates industry's recognition of the need to balance the economics of recycling: Du Pont represents the supply side of the process, P&G the demand side. In fact, P&G has already switched to 100% recycled plastics for all of its Spic & Span bottles and has reached 25% recycled material in its other laundry and cleaning product packaging.

As laudable as the proposal is, however, it is bound to be insufficient for two reasons. First, the problem is too serious for only a few industry players to solve on their own. Second, even committed industry players like Du Pont and P&G will fail to reach their targets unless a recycling infrastructure is designed and managed regionally and nationally.

Today, for example, P&G has difficulty obtaining enough high-quality post-consumer recycling material. It needs milk and water jugs (high-density polyethylene or HDPE) to package Spic & Span. But in the late 1980s, some 99% of the 2.7 billion pounds of HDPE produced and 80% of the 875 million pounds of polyethylene terephthalate (PET) produced went into the nation's landfills.

It went there despite the fact that demand for it exists. And clearly there is the supply. Missing are the critical elements of a system to connect the supply and demand in a predictable, credible manner. Many packaged-products manufacturers want to shift to recycled plastics; but they fear that supplies

will not be sufficient or dependable. At the same time, many manufacturers who want to deliver the supply, but who would have to make expensive capital investments to process the plastics, doubt the long-term stability of demand. As a result, everyone in the recycling chain goes slow.

The missing element is leadership—in particular, leadership from Washington, D.C. Current U.S. Environmental Protection Agency "goals" for recycling remain far below the real needs of the economy and the environment. A decade of the Reagan-Bush era's "new federalism," which sought to minimize the federal government's role and shift burdens to state and local government, has left as its legacy a leadership gap. State legislatures and municipal governments are seeking to fill in, but the results are piecemeal and unproductive. Meanwhile, the gravity of the problem only intensifies.

#### WASTE DISPOSAL OPTIONS

To deal with the mounting solid-waste crisis, there are four basic options: reduce the amount of plastics manufactured and used, recycle them (and compost some truly biodegradable plastics), incinerate them, and dump them into landfills.

Source reduction, the first option, includes the total elimination of plastics from society, a radical circumstance fondly envisioned by some environmentalists. But the truth is that such a change would be as bad for the environment as it would for business—a useful reminder that plastics are as much a blessing as a curse.

To get the feel for the way in which the elimination of plastics cuts across the grain, consider the impact on Minneapolis if all plastic food packaging had been outlawed. A Minneapolis supermarket stripped of 14,000 items would be a disheartening place to shop. Consumers would have substantially reduced choices. Some, but not all, products might reappear in alternative packaging, much of it bulkier and less convenient for consumers to use. But many products that depend on plastic packaging for freshness, convenience, and shelf life would never reappear.

The price of everything would, of course, go up. In part, price inflation would be a natural economic consequence of Minneapolis making itself a circumscribed market with unique packaging requirements. But a more important factor in the price rise would be the very reason that food processors turned to plastic packaging in the first place: it reduces weight and volume and allows packaged foods to move at lower cost and with less spoilage and breakage, thus reducing costs through efficiency gains while ensuring that health and sanitation requirements in the food supply are met.

Moreover, a recent study commissioned by the German government to evaluate the costs of eliminating plastics completely from that nation's economy found serious environmental impacts: packaging-related solid waste would nearly triple and the weight of packaging materials would increase four-fold. Eliminating plastics would also have a negative energy impact: the energy consumed to manufacture packaging material would double.

A second option for dealing with solid waste is recycling. Despite the fact that the United States has yet to create the infrastructure that would put recycling to work in a substantial and meaningful way, many leaders in business, government, and environmental groups look to recycling to play the major role in solving the country's solid-waste crisis. (For a closer look at the recy-

cling system established by Taiwan, see the insert "Plastics Recycling in Taiwan.")

Incineration is also an option, one that health experts and environmentalists have historically opposed as both wasteful and polluting. Today, according to EPA estimates, 14% of municipal solid waste in the United States is disposed of in waste-to-energy incinerators. With state-of-the-art technology, such incinerators are actually environmentally satisfactory. When operated at extremely high temperatures—typically in excess of 1,800°F—and controlled to contain 95% of polluting effluents, new burners can reduce solid waste 80% by weight and 90% by volume. At the same time, they provide valuable energy, so much so that Swedes call plastics "white coal." Many experts believe that incineration does not recover as much energy as was required to manufacture the plastics in the first place. For that reason, incineration is not as efficient a disposal process as other options.

The final option, landfilling, is the one currently in greatest use, but space is quickly disappearing. In short, it is clear that no single option by itself is sufficient. Meanwhile, pressure to recycle mounts on all who make or use plastics. Several states are currently considering laws to ensure that by 1996, 35% of all plastics will be recycled and that by 2001, the recycle rate will be up to 50%. The plastics industry has already set a 25% target. But as things stand, none of these targets can be reached without an integrated approach to the problem. In turn, an integrated approach requires the creation of a comprehensive, systemic solid-waste disposal infrastructure. For the United States, the question is what would it take to make that happen?

#### A NEW APPROACH: MANAGING THE INFRASTRUCTURE

Finding a new approach involves understanding where the mistakes were made and learning from the failed initiatives of Minneapolis and McDonald's. In particular, there are five principles that emerge as vital underpinnings to a new solid-waste management infrastructure.

First, when it comes to solid-waste disposal, business and government are partners—like it or not. Only government has the authority to make certain crucial decisions about the disposition of municipal solid waste. Only industry has the competence to implement what government decides. Just as industry will never have the authority to define community need, government will never have the competence to see it fulfilled.

Second, the recycling infrastructure is a system, and like all systems, it must operate in balance to operate properly. New public policy initiatives must be designed to balance the inputs and outputs—the supply and demand—in the recycling system.

Third, economics and politics must also act as partners. In economic terms, a recycling infrastructure must operate at either a national or regional scale, one large enough to capture real economies. In political terms, environmental decisions are often intensely local, circumscribed by state boundaries or those of individual townships. Such local flexibility may be necessary, but politicians who ignore economics will generate options that their communities cannot afford; those who stress economics but ignore the political realities of local sentiments will design systems that cannot be voted in.

Fourth, all levels of government have appropriate roles to play; government that is at odds with itself only impedes a solution.

For example, a grass-roots, local-only program for collecting and separating recyclables makes practically no sense if it leaves out regional and national coordination for processing and sale. At the same time, a federal "one size fits all" approach alone is also doomed. Government, to operate effectively, must create partnerships, not win-lose situations.

Finally when it comes to plastics recycling, everyone agrees—generate less trash, recycle more. When it comes to creating a system to accomplish the agreed-upon goal, no one agrees. But without the system, the agreement on the goal is worthless.

The system that must be created is made up of a variety of component systems, each of which must be managed to achieve its own appropriate results and to coordinate it with the whole. Four fundamental points define the components of the system.

**The Infrastructure.** A system for municipal solidwaste disposal must include integrated decisions on the relative levels of recycling incineration, and, when necessary, landfilling for all materials in the waste stream. The system must also address issues of scale, balance supply and demand, and involve all of the necessary participants in the public and private sectors.

**The Forum.** There must be an advisory committee to govern the process and to design and manage the infrastructure. A regional or national group should be formed, including all stakeholders in the management of municipal solid waste, thereby joining competence authority.

**The Management.** The infrastructure must be managed through the judicious application of social, financial, legislative, and political incentives and disincentives. The object is to drive participation by all appropriate stakeholders, to balance supply and demand in the system, and to achieve enough certainty and stability in the system to encourage private-sector investment.

**The Philosophy.** The undertaking demands that participants adopt holistic, communitarian thinking. That means that companies must take cradle-to-grave responsibility for their products; government must view the systemic consequences of its actions; and citizens must recognize that their behavior as individuals affects the whole community. Moreover, every decision must reflect a systemic, cost/benefit analysis involving total energy and material inputs and total waste and pollutions outputs.

These four points are, in fact, a reflection of the recycling infrastructure itself. It is a system that is complex and demands sound management. It involves a wide variety of companies and industries—so no single enterprise can succeed by itself. It involves both authority and competence—so government and industry must join together. It entails individual responsibility in separating waste and national coordination in the effective operation of a market—so the individual citizen is as critical to the effort as the largest corporation or the highest elected official. What follows is a description of how such a system would need to work for plastics.

**Supply Side.** Under ideal conditions, a community would divide its solid waste into three streams when it collects it from residences and businesses: nonrecyclables, which would be collected and landfilled, incinerated, or processed through mixed-waste composting; yard waste, which would be composted; and recyclable sorted by type (glass, aluminum, paper, plastic), which would be collected at either curbside or regional buy-back or drop off centers.

Some communities are currently experimenting with a system in which all recyclable are collected together and then sorted elsewhere. Another collective system, currently not in widespread use, requires residents to sort trash into three streams at their homes and use color-coded garbage bags to indicate which type of trash is in which bag. The bags can then be collected by regular trucks. Utilizing human intervention and sophisticated sorting technology, recyclable can be extracted into generic streams. This approach has advantages over a system that requires special trucks to collect the different streams of trash, the methods used in New York City and Los Angeles. According to some estimates, the cost of waste collection has quadrupled in New York and air pollution has worsened in Los Angeles because of the approach to recycling taken into those communities. For example, to introduce recycling collection in Los Angeles, the city had to add 600 diesel trucks to the 1,000-truck fleet already in operation.

According to the system we have diagrammed, recyclable are collected at curbside, the preferred method for American consumers today. (The French and Italians, by comparison, seem to prefer drop-off stations; Taiwanese use "igloos"—700 color-coded drop-off receptacles—augmented by 30,000 scavengers who are paid for recovering recyclable plastic bottles.) Even with curbside collection, there are two choices: either sort the material at the curbside or collect it and take it to a centralized location for sorting.

Curbside separation has one major advantage: it allows those collecting the waste to give feedback to recycling participants. If, for example, a recycling household has mistakenly put out a toaster—an item that is not currently recyclable—the mistake can turn into an opportunity for a conversation or a notice that could prevent more mistakes in the future. Curbside recycling, however, has one major disadvantage: the equipment required. For trucks to keep materials separate after collection, they must have at least four compartments—one for newspaper, one for aluminum, one for glass, and one for plastics. Moreover, if one compartment fills up, a truck may have to leave its route entirely and dump its load, adding inefficiency and expense to the system.

Where a MRF is in use, the system typically would allow collection at the curb to proceed without separation. At the MRF, technology permits the separation of paper (white, office, and newspaper), metal cans (tin and aluminum), glass (primarily bottles in clear, green, and amber), and plastics (all rigid containers). When plastics emerge from a MRF, they have been made more dense—typically by baling, a step that involves crushing the ballonlike plastic containers and forming 700- to 1,000-pound bales that can be shipped economically.

**Demand Side.** The role of the MRF is to separate plastics from other recyclables, enabling plastics reclaimers to sort the recyclable plastics into four resin types and several color categories: PET, used primarily for soft-drink bottles (green, clear); HDPE, used for milk and spring-water jugs and laundry detergent bottles (natural or pigmented); polyvinyl chloride (PVC), used for some mineral water bottles; and polypropylene (PP), used to make many plastic films (bags and wrappers, for example). The plastics reclaimers separate the plastics into six generic streams (two colors each for PET and HDPE, plus PVC and PP), then grind, wash, flake, or pelletize the plastics before

shipping them in 1,500- to 2,000-pound containers.

Where the reclaimers ship the containers depends on their end use, which is why the map becomes complicated at this stage. Some plastics never get to a sophisticated plastics reclaimer because there are a variety of applications for mixed or commingled plastics: park benches and highway dividers, for example. These are low-tech products that already enjoy large demand in retail and industrial markets, and for which plastics offer distinct advantages for example, unlike wood, plastics will not rot. In Europe, nearly all plastics recycling involves commingled plastics, not generic streams. Selling commingled plastics is not, however, a very attractive business: the Price per ton today is well below the range of \$200 to \$500 that generic streams can command.

Generic-stream plastics find end markets with plastic resin manufacturers, who use them to make plastic products of either purely recycled material or some combination of recycled and virgin materials. In using recycled plastics, these manufacturers are gaining real cost savings and meeting recycled content regulations set by law or customer demand. They must retrofit their operations to deal with a new kind of feedstock, but they still sell the same volume of end product. The chemical manufacturers, on the other hand, are directly threatened by the trend toward recycled plastics. If plastics manufacturers substitute recycled plastics for virgin materials consistently and widely, they will clearly sell less of the commodity chemicals used to make plastic resin. Consequently, in spite of their apparent support for recycling, chemical manufacturers are likely to be one link in the chain that reacts warily to a wide-ranging move toward plastics recycling—unless they make the necessary capital investment now to become part of that new industry.

The other restraint on plastics recycling is regulatory. The Food and Drug Administration has never given explicit approval of the use of recycled plastics to make packaging that comes in direct contact with food. The industry, not desiring a run-in with the FDA, has been reluctant to experiment. But this attitude is changing as recycling technology advances and the FDA takes a more definite position. In February 1991, for example, Coca-Cola and Hoechst-Celanese announced that they had developed a depolymerization process for recycling PET into soft-drink bottles that appeared to satisfy FDA guidelines.

Even without a shift in the FDA's position, however, it is already possible for soft-drink bottlers to use recycled plastics in their products simply by purchasing reclaimed HDPE and manufacturing base cups for PET soft-drink bottles, since they do not come in contact with the beverage. Makers of nonfood bottles can use significant amounts of reclaimed HDPE as inner layers in their containers: for example, P&G's laundry detergent bottles now contain 25% or more recycled HDPE.

At this point in the process, the recycled products go to market, closing the loop. P&G's detergent bottles are a perfect example: materials that were once in the supermarket as soft-drink bottles return to the supermarket as detergent bottles.

Finally, the complexity of the demand side of the system is even greater than shown in the map because of the thousands of competitors at each link of the value-added chain. Indeed, some companies like Du Pont find themselves competing at a number of

points along the chain. For that reason, the management of the process and the construction of a consensus along the chain involves mediating among companies that often have multiple interests at stake.

The final loop on the map shows the path for deposit bottles. Currently, some states impose a five- or ten-cent deposit on soft-drink and beer bottles, designed originally as a disincentive for littering. Today those laws help gather some material for recycling. When consumers return their empty bottles to a supermarket, the grocer refunds the deposit and then turns the bottles over to the originating local bottler. The grocer receives a one- to two-cent per bottle handling fee. The hauling of the bottles can get complicated, however, because of the value assigned to the bottles by the deposits. If, for example, the bottling company uses a third-party hauler to carry the empties back to the plant, the hauler must run its own accounting operations to keep track of payments owed grocers by bottlers. Moreover, many bottle-bill states have become battlegrounds as the various parties—bottlers, grocers, and state governments—fight over who should get the large pool of unclaimed deposits.

Once the bottles have made it back to the plant, they are sold to plastics reclaimers or to sorting companies that will divide them into generic streams to generate feedstock for new high-value product manufacturers.

#### GETTING STARTED

The problem is serious and getting worse. The system that needs to be established is evident. The first step toward creating that system is obvious: EPA administrator William K. Reilly should establish a foundation for integrated, multimaterial recycling, including plastics. With membership drawn from all critical stakeholders, like the Minneapolis advisory committee created by Ordinance Chapter 204, the foundation would be empowered to play a variety of roles, perhaps most important, consensus building among the players. Members should include the relevant industry leaders, government officials, citizens' environmental group leaders, and science and business experts.

The foundation would operate at a national and regional level, with a charter to design and manage the recycling infrastructure and to recommend federal, state, and local legislation to create needed regional organizations. Its goal would be to eliminate barriers to recycling by identifying ways all stakeholders could benefit and share costs in an equitable fashion. The unique value of the foundation is that it would give stakeholders with competence in plastics recycling but little authority—such as CSWS—a forum in which to contribute to the design of helpful policies, and it would give stakeholders with authority but less competence in plastics recycling—such as elected officials and general-interest environmental groups—a reliable source of technical, scientific, and public policy expertise.

The foundation would use the carrots and sticks of public policy to drive the recycling infrastructure at both the national and regional levels. As a nongovernmental group, the foundation could escape the usual strictures of bureaucracy and avoid the adversarialism that tends to plague government-business interactions. At the national level, the foundation could usefully concern itself with:

Setting standards and establishing definitions for environmentally acceptable products and packaging, including recycling, recycled content, and reuse.

Defining national goals for the recycling infrastructure, including recycling as a percent of the total waste stream and recycling targets by product and material.

Developing and promoting a national philosophy and perspective on recycling, including the value of seeing it systemically, recognizing the need for cradle-to-grave product responsibility, and championing fairness in the burdens and benefits of recycling.

Creating and administering "green" product certification through an ecolabeling system, similar to Taiwan's Ecomark and Germany's Blue Angel.

Establishing a standard coding system for materials to facilitate recycling, such as the Society of Plastics Industry's numbering system for coding plastic containers according to resin type.

Recommending packaging and product design to promote the manufacture of easily recycled products—a "design for disassembly" approach for a wide range of consumer products, from soft-drink bottles to white goods to automobiles.

Identifying and outlawing products or packages that are egregious enough to qualify as "environmentally unacceptable" under any circumstances.

Instituting a national container-deposit law to promote recycling in rural as well as urban areas and to raise funds for the further development of the national infrastructure.

Funding research projects in areas of debate over waste reduction, such as the question of how to develop and identify truly degradable plastics products.

Implementing incentives and penalties to stimulate recycling, such as deposit fees, tax credits for the use of recycled materials, and fees on the use of virgin materials.

Creating markets for recycled materials through procurement incentives for business and procurement requirements for government agencies.

Designing education programs, such as those in Taiwan, to teach schoolchildren about the economic and environmental importance of recycling and proper waste management.

At the regional level, the foundation could work on:

Administering collection and sorting programs through state, municipal, and county governments.

Instituting "measured" services for waste collection that use "pay-by-the-can" methods, such as those in Seattle, Washington, to alert customers to the true costs of waste disposal and link waste volume with system costs.

Setting landfill usage fees high enough to make recycling an attractive alternative.

Stimulating regional markets for recycled materials by setting recycled content procurement requirements for state and local government, offering local tax credits for the purchase of recycled materials, and providing grants to local business developments in recycling.

Operating container-deposit redemption programs in areas where curbside recycling is impractical (such as sparsely populated rural areas).

Implementing public education programs to teach methods of curbside collection.

Funding research at the local level to improve collection, sorting, and markets for recycled materials.

Such a foundation would respond to the needs of the current waste-management crisis. Neither public nor private, it would avoid the pitfalls of adversarialism that plague the two sides, while joining authority

and competence in a single body. It would be captive to no special interest, since it would be widely representative and charged with sharing the costs and benefits of waste management throughout the community of its stakeholders. It would be able to move aggressively in the short run to balance supply and demand, while creating an infrastructure capable of benefiting all parties in the long run. The country would benefit by the development of thoughtful, systemic, integrated solutions to a serious problem—and could be spared the cost and pain of ad hoc, desperate measures that will certainly come if the crisis is left to grow.

#### PLASTICS RECYCLING IN TAIWAN

By the mid-1980s, Taiwan was stifling in bad air, awash in contaminated water, and blanketed in its own waste, 90% of which went into landfills. Second only in population density to Bangladesh, Taiwan's gross national product has grown 10% or more each year for the past two decades. Now the small, highly productive island nation was paying the price.

In 1987, Taiwan began to devise a solution. Critical to that effort was Dr. Eugene Chien, who took charge of the country's Environmental Protection Administration and designed a national solid-waste management policy based on recycling.

Chien saw national recycling as the most effective way to alleviate the country's growing environmental woes. He launched his initiative by establishing a list of 15 categories of commercial byproducts and materials subject to mandatory recycling. The first category addressed was PET (polyethylene terephthalate) soft-drink bottles. To get PET recycling up and running, Chien deployed an education program in the nation's grade schools, an Ecomark program in which the EPA designated certain environmentally acceptable products, a law requiring producers to take cradle-to-grave responsibility for their products, a collection system funded by soft-drink bottlers, and a processing plant funded by plastics producers who in turn would guarantee to buy all reclaimed plastics. The system was engineered to ensure both adequate supplies of post-consumer plastics and sufficient demand for the recycled product.

The key to Taiwan's success was the passage of a Solid Waste Management Act in the national legislature in late 1988. The new law, despite vigorous opposition from the business community, made manufacturers and retailers responsible for retrieving and disposing of packaging and containers that were nondegradable, not easily reused, or composed of hazardous elements. The law gave Taiwan's EPA wide-ranging authority to identify affected products and to take action to manage their disposal or elimination.

PET soft-drink bottles were the first target. The EPA defined them as unacceptable packaging. The demand to industry was clear—collect and recycle or abandon the package. Following a period of unsuccessful resistance, Taiwan's 12 soft-drink bottlers got down to business, setting up an infrastructure for collection, reclamation, and resale and creating a governing organization called the Waste PET Management Committee to coordinate the creation and operation of the recycling infrastructure.

Collection and sorting then occurred through the use of 700 small, igloo-shaped drop-off centers, color-coded for PET plastics, located throughout the country, paybacks to Taiwan's 30,000 scavengers who traditionally lived off "gold in the garbage"; deposits to seven cents for redemption and

balancing of bottles; and input to a processing operation called the Taiwan Recycling Corporation, established by the country's two largest PET bottle makers.

The success of the effort involving soft-drink bottles soon spread. Taiwan's soy-sauce bottlers, who accounted for roughly a third of all PET bottles in the waste stream, followed suit. By 1990, Taiwan was recycling 33% of its PET plastic bottles; and today it is working toward a goal of 50%. Taiwan's system now is not only efficient; it also turns a profit.

Mr. PACKWOOD. Mr. President, I rise today to join the bipartisan support for the National Beverage Container Reuse and Recycling Act of 1992, S. 2335. I am delighted that identical legislation is being introduced in the House of Representatives on this important environmental and energy issue.

After standing in this Chamber speaking in support of a bottle bill for the last two decades, I truly hope that the demise of the no-deposit, no-return beverage container is about to occur. This is by no means an untimely death.

This bill should give all States the incentive to bring their beverage container recycling rates up to at least 70 percent, using whatever method each State may want to implement.

The history of legislation such as this goes back to a sunny summer Sunday in the late 1960's, in a small coastal village in Oregon when a manufacturer named Rich Chambers and a dory fisherman named Paul Hanneman talked about the huge amount of empty bottles and cans that littered the beaches and streets of Pacific City. These were left by weekend tourists who had come to enjoy the magnificent ocean, walk on the beaches and poke around the shops, as has always been a favorite pastime for Oregonians and tourists alike.

Chambers wondered aloud if a mandatory deposit could be put on all the cans and bottles. Hanneman, then a Member of the Oregon House of Representatives, indeed thought the time had come, because, he said, "We had better do it now, before things get any worse."

Legislation was submitted and defeated until the spring of 1971, when a growing band of consumers effectively lobbied its passage, banning flip-top cans, and charging a minimum two-cent refund.

Around that same time, across the country in the State of Vermont, a young girl seriously cut her foot on a broken bottle while walking along the shores of Lake Champlain. Angered by such an unnecessary accident, her father, a Member of the Vermont Legislature, went on to craft a bottle bill along with my distinguished colleague, Senator JEFFORDS, which passed in their 1972 session.

Well, trash from beverage containers didn't get worse in Oregon or in Vermont. As a matter of fact, beverage

container litter along the highways and on the beaches dropped 72 percent the first year after Oregon's bottle bill was implemented. Last year, the State's beverage container recovery rate was 93 percent, according to the Department of Environmental Quality.

States that have container deposit legislation—Iowa, New York, Michigan, Maine, Massachusetts, Connecticut, California, and Delaware. Bottle bills have helped to beautify these States, and also made the environment much safer for our children.

When Oregon's bill was being considered, the opposition to the bottle bill raised concerns about an increased expense to the consumer. Well, during a recent weekend in Portland I noted that you could buy a six-pack of the soft drink of your choice for anywhere from 99 cents to \$1.79. Sounds reasonable to me. That was lower or as low as the going price in the D.C. suburbs, where there are no bottle bills.

More jobs have been created as recycling markets have developed in the private sector, and I'm not referring just to the minimum wage jobs, but to the higher paying family-wage jobs that new and emerging technologies have fostered.

And, a garbage problem that was supposed to occur because of empty bottles and cans going back to the stores has not happened. Our food markets are just as clean, some even more so with such new technologies as reverse vending machines for container recycling that the stores also use for product advertising. I hope my colleagues had the opportunity to use the reverse vending machine I had placed as a demonstration in the Dirksen North Server recently. Thousands of cans were returned during the first month instead of being trashed and carted away. Now that the machine has been removed, where have the cans gone—right into the solid waste stream.

So, here we are two decades later, and Oregonians and others are now talking about the savings in energy and natural resources created by beverage container deposit legislation. They are talking about the curbside recycling programs that have sprung up in the bottle bill States because their bills fostered the reuse and recycling ethic. They are talking about the savings to their communities when consumers take the recycling responsibility instead of having the expense fall on their municipal collection services. They are developing pay-as-you-throw policies for trash collection. They are talking about the plastics recycling industry who can not get enough plastic bottles to recycle into new products. These companies get over 90 percent of their plastic for recycling from bottle bill States—over 90 percent—and they say they can not get enough.

I have college interns in my office who are 20 years old and have never

lived under anything other than a State bottle bill. And, with each new intern group that arrives from Oregon, I can predictably say that one of their first revelations about their new environment is going to be, why don't people recycle their cans and bottles here? I can't believe they just throw them away to be carted off to the landfills. What a waste.

Mr. President, I urge my colleagues to listen and this time to hear the reasoned people of Oregon and to hear the vast majority of people in this country who said that the time for a national bottle bill is now. Hear the environmental groups like the Sierra Club and Oregon OSPRG [the Oregon State Public Interest Research Group], who have asked for my support of the bottle bill. Fortunately, they know they have had my support of the bottle bill. Fortunately, they know they've had my support for 20 years. I hope my colleagues will join me with their support also—before, as they said in the sixties, things get worse. I thank the Chair.

By Mr. ROCKEFELLER (for himself and Mr. RIEGLE):

S. 2336. A bill to establish a loan program at the Department of Commerce to promote the development and commercialization of advanced technologies and products; to the Committee on Commerce, Science, and Transportation.

LOAN PROGRAM FOR DEVELOPMENT OF ADVANCED TECHNOLOGIES AND PRODUCTS

• Mr. ROCKEFELLER. Mr. President, today Senator RIEGLE and I are pleased to introduce, along with Congressman MINETA in the House, legislation to authorize the Commerce Department's Technology Administration to provide long-term, low-cost loans to U.S. companies to develop and commercialize advanced technologies. The program is intended for small- and medium-sized companies and would focus in such areas as electronics, biotechnology, and advanced materials.

This bill is part of my effort to construct a long-term growth strategy for the United States. It is more than apparent by now that we are rapidly losing our ability to compete globally in the critical technology sectors that will define our ability to lead in the next century.

We are losing because America is adrift. Even worse, the administration and a number of traditional economists defend drift as the correct policy. It is the market working its will, they say. What many of us in the Congress understand is that that proposition is no longer acceptable. The stakes are too high to permit it.

The people are asking for leadership and direction, and the President's response is to define his role as getting out of the way and letting business do what it wants. Mr. President, we can do better than that. Throughout our history, we have done better than that.

This week we will begin a major debate on tax policy, which is an important element of any antirecession program. But only a small part of that debate will focus on long-term growth in critical sectors. Once it is over, however, attention will turn to the program side of the equation, and many of us will be prepared at that time with proposals relating to nurturing critical technologies, improving and more widely disseminating manufacturing technology, improving worker training and adjustment programs, promoting exports, and developing a more aggressive trade policy.

In addition to this bill, on February 28 I introduced S. 2286, which would create an Advanced Technologies Capital Consortium that would serve as a part publicly funded, privately run venture capital consortium that would invest in research, development, application, and commercialization of critical technologies. Both that bill and the one Senator RIEGLE and I are introducing today address the problem on insufficient capital being available for the key technologies of the future.

Last fall I also introduced S. 1721, which would reorganize and revitalize the Government's export promotion programs. In the near future I plan to have further proposals on worker training and trade policy that will round out a comprehensive package of growth and investment measures.

Having set the context, Mr. President, let me now say a word about today's bill and how it would work. The Government would make the commercialization loans at its cost of borrowing plus up to 2 percent for administrative costs and to help defray any default costs. Under the credit reforms enacted by Congress in 1990, the Office of Management and Budget will estimate the likely default rate for this program—as it will for all Federal loan programs—and the \$20 million authorized for this program will, in effect, become a loan reserve to cover defaults. The Commerce Department will have to restrict lending to the amount OMB estimates a \$20 million reserve can cover. OMB has not addressed this issue yet for this proposal and would not do so unless it became law, but most estimates suggest that a reserve of this size will support a loan program of as much as \$100 million.

The reasoning behind this legislation is equally straightforward. It is designed to refocus Federal efforts on what we don't do well. As the competitiveness debate in this country has gotten more sophisticated over the past few years, there has been a lengthening string of studies and commentaries concluding that American research and development remains the best in the world. Where we fail, and fail consistently, is translating the fruits of that research into commercially viable products. Edward Miller, president and

CEO of the National Center for Manufacturing Sciences (NCMS), recently laid this out clearly in testimony before the Commerce Committee:

I am certain you are aware that we in the United States have been very successful in achieving research and development results. Not too long ago, I had an opportunity to review the distribution of Nobel Prize and Fields Prize winners by country. I am struck by the fact that we have won two and a half times more prizes than any other country in the world. That is an awesome achievement, and it clearly shows we understand what it takes to succeed in research. Further there is a pretty good spread of awarded prizes across the sciences, so we know our understanding is broad and in-depth.

However, on the reverse side of the coin, during the last four to five decades we have watched discovery after discovery, invention after invention migrate from our research laboratories to the manufacturing floors of our trading partners. This has been particularly true of products like cameras, radios, televisions, VCR's, computers, semiconductors, CNC technology, and a list that goes on and on.

Dr. William A. Owczarski of United Technologies, testifying on behalf of the NAM, made the same point:

Recent experiences (e.g. VCR's and semiconductors) point unmistakably to the conclusion that innovation alone is not enough to ensure economic leadership. The application of innovative ideas is what matters most now. Thus, while U.S. industry remains a leader in the development of advanced manufacturing technologies, it can fall short in the adoption and deployment of these technologies.

Even the administration's own witness, Robert M. White, Under Secretary of Commerce for Technology, acknowledged the problem at the same time he opposed doing much about it:

The U.S. is a leader in research on advanced manufacturing technology, but slower with respect to its development, deployment, and use.

Thus, Mr. President, it is fair to say there is no longer much debate about what the problem is. Unfortunately, we continue to argue over solutions. Obviously, the primary burden must be on American industry and investors. They need to develop longer term points of view. Investors need to be more "patient," focusing on more than next quarter's earnings. Our academic institutions need to develop engineering curricula and programs that focus on manufacturing process technology as well as basic R&D.

At the same time, asking what the Government can do to help is a legitimate question, and one which has been frequently asked—and answered—throughout American history. From the Government's development of a competitive agriculture sector in the 19th century to its creation of an American civil aviation industry in the 1920's to its support of the aerospace industry in the 1950's and 1960's, the Government's ability to mobilize resources—money, people, technology—on behalf of national goals is embedded

in our way of life. Americans have always risen to the challenge. It is only the past two administrations that have made such efforts politically incorrect.

It is also ironic that their blindness extends only to industry. In the last Congress, we passed and the President signed a farm bill containing an Agriculture Commercialization Loan Program very similar to what I am proposing today. The administration did not seem to have any problem with that; indeed its author, then-Representative Madigan has moved on to bigger and better things in the administration.

Mr. President, it is time to rise to the challenge again. The erosion of our manufacturing and critical technology base is accelerating. It directly jeopardizes our national security and our ability to retain the world's economic leadership, which is increasingly the key element of national security. If we cannot compete globally in economic terms, then we will not be able to sustain our foreign policy objectives either. We will simply have no credibility.

This amendment is only a modest step in that direction, but it focuses on the area of greatest need—critical technologies and small businesses that lack access to capital. I envision that many of the loan applicants would come directly from Commerce's Advanced Technology Program, which provides R&D support. That would give the Department an extensive track record both with the technology and the company in question, which would severely reduce the risk of default.

Let me conclude, Mr. President, by commenting on what I suspect will be the major argument of those opposed to this bill—that it crosses the line into industrial policy, into picking winners and losers. There are two reasons why that argument is wrong.

First, the Government picks winners and losers every day. Every time Congress passes a tax bill, every time EPA changes its environmental regulations, every time we continue or kill a defense program, we create winners and losers in a far more direct way than anything this bill will do. In fact, Mr. President, determining industries that must be winners for the United States is Government's business, and it has been doing that for years.

Second, the idea that there is in the innovation-manufacturing continuum a bright line, on one side of which lies generic, precompetitive R&D and on the other side of which lies industrial policy, is nonsense. There is no magic point at which research suddenly and miraculously becomes product-specific and proprietary. When the Advanced Technology Program or DARPA selects projects to support, they clearly are looking down the line to usable outcomes. To stop the Government support process at an arbitrary point for ideological reasons nullifies the effectiveness of the programs.

The main difference between commercialization and research is that the former focuses on manufacturing and production technology. Building one of something in a lab is a very different exercise technologically than learning how to build thousands of them at competitive prices. Commercialization means spending time and resources learning how to do precisely that—to create viable products for the marketplace.

Mr. President, this bill would add to our competitiveness toolbox in a way which is completely consistent with the mandate Congress has already given the NIST—to facilitate the more rapid commercialization of advanced technologies. That is in current law. This legislation simply gives meaning to that mandate. I hope all Senators will support it.●

● Mr. RIEGLE. Mr. President, I join with my colleague, Senator ROCKEFELLER, in introducing legislation to establish the Technology Commercialization Loan Program in the Department of Commerce. This is an important program which is designed to capitalize on U.S. research and development efforts and restore some of America's manufacturing capability.

The loan program provides an additional necessary tool for the Department of Commerce to use in conjunction with the Advanced Technology Program [ATP] to help American businesses reap the benefits of their limited capital resources. Along with ATP grants, it will reduce the effect of the current capital shortage and make sure that American workers and businesses can commercialize their technology.

All too often, first-rate American technology is commercialized by foreign firms. Making sure that American products get to the marketplace, should be an important focus for our Government. The Technology Commercialization Loan Program will maximize relatively small levels of Government resources—\$20 million—and leverage them to support approximately \$100 million in loans to benefit the U.S. economy and our industrial base. As we have seen with the ATP Grant Program, this new loan program will also foster competition and encourage quality American products.

The Technology Commercialization Loan Program passed the House twice during the first session of the 102d Congress. However, its success was stifled when the administration indicated its opposition by labeling this as "industrial policy." As with the sensitive issues that we face in the trade area, we must not be deterred from bringing technology issues out into the public forum.

In recent months, many of us have been focusing on the failing health of the U.S. economy and solutions that might be enacted to set us on a path toward rescuing our manufacturing

base and creating jobs for 16 million unemployed Americans. We need a number of programs as part of that larger economic strategy for America. The Technology Commercialization Loan Program is one of those efforts that will contribute positively to the strength of our economy and future jobs for our people.●

By Mr. GRASSLEY:

S. 2337. A bill to provide for the budgetary treatment of Medicare payment safeguard activities, and for other purposes; pursuant to the order of, August 4, 1977, referred jointly to the Committee on the Budget, and the Committee on Governmental Affairs.

#### MEDICARE FUNDS RECOVERY ACT OF 1992

Mr. GRASSLEY. Mr. President, I rise today to again focus attention on the vast waste in the Medicare Program, and to offer a legislative solution to this serious and urgent problem.

Mr. President on March 5, I stood on this floor and spoke at length about the waste in the Medicare Payment Safeguard Program, most especially the Medicare Secondary Payer Program.

I spoke in detail as to why the problem was occurring and how it was occurring. I cited findings from various GAO reports, and I informed my colleagues that I was working on a solution and that I hoped to be back on the floor soon with that solution in hand.

Mr. President, I believe that I now have that solution and that is why I am here today.

I do not wish to unnecessarily take up time here today restating the details of the problem and therefore would refer to my full statement of the problem of March 5. However, I do think it is necessary to quickly summarize the problem.

Mr. President, Medicare payment safeguards consist of three activities:

First, reviewing all claims to make sure they are appropriate;

Second, auditing cost reports submitted by hospitals and other providers; and

Third, assuring that Medicare pays claims only after other responsible insurers have paid—this is known as the Medicare Secondary Payer Program [MSP], enacted in 1980.

Here lies the problem. Safeguard funds have been cut from \$358 million in 1989 to \$334 million for 1992. While the budget has been cut the program has been growing by 11 percent per year.

Also, because safeguard activities are extremely cost effective—returning a high of \$30 for every \$1 spent in the MSP Program to an average of \$11 for every \$1 spent on combined activities—these cuts have had a profound and compounded effect on program savings.

Mr. President, GAO found that Medicare contractors have MSP backlogs of claims mistakenly paid totaling over

\$1 billion. In addition, contractors reported 1.1 million beneficiaries who had other insurance.

When these claims are researched, an additional \$1 billion could be owed to Medicare by primary insurers.

This means that over \$2 billion owed to the Government may never be collected because contractors lack adequate resources.

In fact, fiscal year 1992 budget cuts have forced contractors to reduce staffing levels by over 1,000 positions. Many of these positions were in the payment safeguard area and will only further hamper efforts to recover money owed to Medicare.

Mr. President, my colleagues know that I am not one to advocate spending money just for the sake of spending it, but this is a serious and wasteful situation which can't be allowed to stand.

There is too much money at stake here to turn our backs on adequately funding these activities.

It is also clear that funding is not the only problem here.

The Health Care Financing Administration [HCFA] needs to take a more hands-on approach in implementing new and effective management controls to significantly reduce payment errors.

HCFA must also do a much better job of tracking and reporting on the status of safeguard activities. HCFA must do a better job of accounting for money that is owed and recovered as well as money that is owed and not recovered. We must be able to determine amounts outstanding at any given time.

The bill I am about to introduce today imposes new reporting requirements of HCFA which will give us a better accounting of these activities.

As for ending pay and chase I am working on the concept of a third party clearinghouse solution which I hope to introduce soon as a separate bill.

The clearinghouse would provide information on beneficiaries with primary insurance so that their claims would not be mistakenly paid out by the Medicare Program.

I hope to be back again soon to introduce this commonsense solution to the current process, which is embarrassingly wasteful.

We simply must end this impractical and wasteful practice of "pay and chase"—that is mistakenly paying a claim and having to expend valuable resources in an attempt to recover it.

Mr. President, I now want to talk about my solution of the financing and reporting aspects of this dilemma and very quickly discuss my first inclination in solving this problem.

My initial approach, and one that is still near and dear to my heart, was to establish a self-sustaining revolving fund for which all safeguard recoveries would be earmarked.

Instead of relying on the ambiguity of the appropriations process for safe-

guard funding, the Secretary of HHS would be given authority to use amounts in the fund to finance the next year's payment safeguard activities.

All excess money in the fund, beyond the prescribed amounts available to the Secretary for additional payment safeguard activities, would be returned to the Medicare trust funds.

Now granted, this approach would have required seed or startup money for the revolving fund—about \$165 million above the fiscal year 1992 appropriation—but it would be self-sustaining in years thereafter.

However, that was not the problem I encountered in trying to sell this concept to my colleagues and others. Rather, the opposition to this approach stemmed from the belief that it would be a scoring nightmare.

This is despite the fact that precedents for scoring payment safeguard savings have been set in OBRA 89. In fact the administration scores payment safeguard savings each year in the budget request they sent to Congress.

Furthermore, Congress enacted a revolving fund for the Department of Veterans Affairs to collect third party payment as the Medicare Secondary Payer Program is required to do.

I still believe that this approach provides the most integrity from a budget perspective because contractors would have to generate results in order to have future funds available.

However, because of the opposition I encountered to this approach, I began to consider alternatives.

And, Mr. President, that is why I am here today—to introduce the Medicare Funds Recovery Act of 1992—an alternative to the revolving fund concept—which would provide the much-needed stability in the Medicare safeguard budget and insure the recovery of money owed to the taxpayer.

My legislation:

Establishes payment safeguard activities as a separate line item within the Medicare contractors operations budget to protect these funds from being used for other purposes by HCFA.

Removes Medicare payment safeguards from the discretionary budget spending caps—this is modeled after a budget enforcement act provision which allows for higher funding levels of IRS enforcement efforts.

Mr. President, this makes good sense because of the similarities between IRS enforcement and Medicare payment safeguards.

One might argue that this feature should then be extended to all entitlements; however, I would argue that Medicare is the priority because of its size and because of the amount of money being lost each year.

This provision would restore budget cuts sustained since they began in 1989 and for fiscal years after 1993 would allow the budget to be increased by the growth in the CPI.

These funds are essential so that contractors could add the staff necessary to initiate recovery of the up to \$2 billion outstanding. These funds would also allow contractors to keep pace with a claims workload which is growing by 11 percent per year.

Furthermore, my bill:

Requires that the President's budget include a separate detailed explanation of Medicare payment safeguard activities expenditures and projections of savings to be generated by each safeguard activity.

And finally, the legislation requires the Secretary to submit an annual report to Congress identifying the actual costs avoided via safeguards, the actual sums recovered which were inappropriately paid, and amounts identified as owed to Medicare but not recovered.

Mr. President, I urge my colleagues to focus on this easily preventable wasteful situation in the Medicare Program and to support my legislation.

Even in good budgetary times, we simply can't afford to waste several billion dollars, especially when it is needed to pay rapidly escalating Medicare claims.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2337

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Funds Recovery Act of 1992".

#### SEC. 2. MEDICARE SAFEGUARD ACTIVITIES.

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Enforcement Deficit Control Act of 1990 (2 U.S.C. 901(b)(2)), is amended—

(1) by redesignating subparagraph (F) as subparagraph (G), and

(2) by inserting after paragraph (E) a new subparagraph as follows:

"(F) MEDICARE PAYMENT SAFEGUARD FUNDING.—(1) To the extent that appropriations are enacted that provide additional new budget authority or result in additional outlays (as compared with the CBO revised baseline constructed in March 1991) for Medicare payment safeguard activities in—

"(aa) fiscal year 1993 the adjustments for that fiscal year shall be an amount equal to the Medicare payment safeguard activities outlays in fiscal year 1989 multiplied by a fraction the numerator of which is the projected Medicare benefit outlays in that year and the denominator of which is the Medicare benefit outlays in fiscal year 1989; and

"(bb) fiscal years after fiscal year 1993, the adjustments for that fiscal year shall be an amount equal to the Medicare payment safeguard activities outlays in the previous fiscal year increased by an amount equal to the outlays in the previous fiscal year multiplied by a percentage equal to the projected consumer price index for the current fiscal year.

"(ii) For purposes of this subparagraph, Medicare payment safeguard activities in-

clude medical and utilization reviews, provider audits, Medicare secondary payer activities, and other activities undertaken to prevent waste, fraud, and abuse."

#### SEC. 3. BUDGET TREATMENT OF FUNDING.

(a) SEPARATE BUDGET LINE ITEM.—

(1) IN GENERAL.—The President's budget shall include Medicare payment safeguard activities funding as a separate account.

(2) DEFINITION.—For purposes of this subsection, the term "account" has the same meaning given to such term in section 250(c)(11) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(27) a separate detailed explanation of Medicare payment safeguard activities expenditures and projections of expected revenues from amounts recovered under rules under title XVIII of the Social Security Act relating to Medicare secondary payer activities, provider audits, medical and utilization reviews, and waste, fraud, and abuse."

#### SEC. 4. ANNUAL REPORT ON MEDICARE PAYMENT SAFEGUARD ACTIVITIES.

Not later than January 1 of 1993 and each subsequent year, the Secretary of Health and Human Services shall submit a report to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives identifying the actual costs avoided and sums recovered and amounts identified as owed to Medicare but not recovered in the previous fiscal year as a result of Medicare payment safeguard activities (as defined in section 251(b)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by section 2 of this Act) and the management initiatives taken to recover claims and reduce payment errors under the Medicare program.

By Mr. PELL:

S. 2338. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

OVERSEAS PRIVATE INVESTMENT CORPORATION  
AMENDMENTS ACT OF 1992

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

This proposed legislation has been requested by the Overseas Private Investment Corporation, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the president and chief executive officer of the Overseas Private Investment Corporation to the President of the Senate, which was dated March 5, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2338

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

#### SEC. 2. REFORM PURPOSE; UPDATING INCOME LEVELS.

Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended—

(1) in the first paragraph by inserting after "economic and social development of" the following: "emerging democracies, free market economies and";

(2) in paragraph (2) of the second undesignated paragraph—

(A) by striking out "\$984 or less in 1986 United States dollars" and inserting in lieu thereof "\$1,091 or less in 1989 United States dollars"; and

(B) by striking out "\$4,269 or more in 1986 United States dollars" and inserting in lieu thereof "\$4,734 or more in 1989 United States dollars".

#### SEC. 3. STOCK OF THE CORPORATION.

Section 232 of the Foreign Assistance Act of 1961 (22 U.S.C. 2192) is amended to read as follows:

"Sec. 232. Capital of the Corporation.—The Secretary of the Treasury shall hold the capital stock of the Corporation."

#### SEC. 4. REVISIONS TO PILOT EQUITY PROGRAM.

Section 234(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2194(g)) is amended as follows:

(1) Subsection (1) is amended—

(A) by striking out "4-year pilot program" and inserting in lieu thereof "pilot program to terminate on September 30, 1997"; and

(B) by striking out "(5)" and inserting in lieu thereof "(4)";

(2) Subsection (2) is deleted and paragraphs (2) through (6) are redesignated as paragraphs (2) through (5), respectively; and

(3) FUNDING AUTHORITY.—Subsection (4) as so redesignated is amended to read as follows:

"(4) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of \$45 million from its income, revenues, and other funds transferred to the Corporation for such purposes. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations acts or are transferred to the Corporation pursuant to section 632 (b) of this Act."

#### SEC. 5. RAISING CEILING ON INVESTMENT GUARANTIES.

Section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)) is amended by striking out "\$1,500,000,000" and inserting in lieu thereof "\$3,500,000,000".

#### SEC. 6. EXTENDING ISSUING AUTHORITY.

Section 235(a)(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(6)) is amended by striking out "1992" and inserting in lieu thereof "1997".

#### SEC. 7. CONFORMING AMENDMENTS FOR CREDIT REFORM.

(a) Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended—

(1) the section caption is amended by striking out "Fund" and inserting in lieu thereof "Loans";

(2) in subsection (a)—

(A) in paragraph 2 by inserting after "Acts in the second sentence, the following: "pursuant to section 504(b) of the Federal Credit Reform Act of 1990";

(B) in paragraph (4) by striking "and (b)";

(C) in paragraph (4) by inserting after "expenses" the following: "For non-credit activities. There are authorized to be appropriated to the Corporation such amounts as may be necessary for operating and administrative expenses for credit activities, which amounts may be transferred to and merged with funds for such expenses for non-credit activities"; and

(D) by striking paragraphs (3) and (5) and redesignating paragraphs (4) and (6) as paragraphs (3) and (4), respectively; (3) in subsection (b), to read as follows:

"(b) Direct investment loans are authorized for any fiscal year only to the extent or in such amounts as provided in advance in appropriation Acts pursuant to section 504(b) of the Federal Credit Reform Act."

(4) in subsection (c), to read as follows:

"(c) The Corporation shall maintain an insurance reserve. Such reserve shall be available for the discharge of liabilities, as provided in subsection (d) of this section, until such time as all such liabilities have been discharged or have expired or until such reserve has been expended in accordance with the provisions of this section. The insurance reserve shall consist of (1) any funds in the insurance reserve of the Corporation on the effective date of this Act, (2) amounts transferred to the reserve pursuant to section 236(b) of this Act, and (3) such sums as are appropriated pursuant to subsection (e) of this section for such purposes."

(5) in subsection (d)—

(A) by striking out "(f)" in the first sentence and inserting in lieu thereof "(e)"; and

(B) by striking out all that follows after "shall be paid" in the second sentence and inserting in lieu thereof "in accordance with the Federal Credit Reform Act of 1990";

(6) by striking subsection (e) and redesignating subsection (f) as subsection (e); and

(7) in subsection (e) as redesignated in the first sentence—

(A) by striking out "and guaranty fund" and inserting in lieu thereof "reserve";

(B) by striking "reinsurance, or guaranties" and inserting in lieu thereof "or reinsurance";

(C) by striking "guaranty" after "predecessor"; and

(b) Section 236 of the Foreign Assistance Act of 1961 (22 U.S.C. 2196) is amended—

(1) by inserting after "earned by the Corporation," the following: "in relation to non-credit activities";

(2) in subsection (b)—

(A) by striking out "or guaranty reserves, the Direct Investment Fund established pursuant to section 235," and inserting in lieu thereof "reserve"; and

(B) by inserting after "determine" the following: "subject to the provisions of the Federal Credit Reform Act of 1990";

(c) Section 237(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(d)) is amended to read as follows:

"(d)(1) Fees may be charged for providing insurance, reinsurance, guaranties, financing, and other services under this chapter in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, guaranties, financing or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, guaranties, financing or services and for similar guaranties issued

under predecessor guaranty authority may be reduced.

"(2) For credit transactions covered by the provisions of the Federal Credit Reform Act of 1990, project-specific transaction costs relating to loan obligations or loan guaranty commitments, including but not limited to project related travel and outside legal expenses, shall be considered cash flows from the Government resulting from direct loan obligations or loan guaranty commitments and shall be paid out of the appropriate financing account established pursuant to section 505(b) of such Act.

"(3) Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in subsection (d)(2) of this section), including financing, insurance, reinsurance, missions, seminars, conferences, and other pre-investment services, shall be available for obligation for the purposes for which they were collected."; and

(d) Section 237 of the Foreign Assistance Act of 1961 (22 U.S.C. 2197) is amended by inserting the following new subsection: "(n) Loans, guaranties, or investments made with funds received in foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) of this Act, shall not be considered in determining whether the Corporation has made or has outstanding loans, guaranties, or investments to the extent of any limitation on obligations, commitments, and equity investment imposed by or pursuant to this Act. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligation or loan guaranty commitments made with funds described in this subsection."

#### SEC. 8. PENALTIES FOR FALSE STATEMENTS.

Section 1014 of title 18, United States Code (18 U.S.C. 1014), is amended by inserting "Overseas Private Investment Corporation," immediately after "the Farm Credit System Insurance Corporation."

#### SECTION-BY-SECTION ANALYSIS OF THE PROPOSED OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1992

##### I. INTRODUCTION

The proposed Overseas Private Investment Corporation Amendments Act of 1992 (hereafter referred to as the Bill) would amend the Foreign Assistance Act of 1961, as amended (hereafter referred to as the Act) in order to extend the authority of the Corporation to issue investment insurance and guaranties and to make certain changes in existing programs and policies.

##### II. PROVISIONS OF THE BILL

###### Section 1—Short title

This section provides that the Bill may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

###### Section 2—Updating purpose and income levels

This section updates the purpose of the Overseas Private Investment Corporation (OPIC) to expand the focus of OPIC's operations beyond friendly developing countries to include emerging democracies and economies in transformation to market-oriented systems, as in Central and Eastern Europe.

It also continues the practice of updating for inflation the country per capita income levels established for which OPIC gives preferential consideration (less developed countries) or restricts its activities (higher income developing countries).

*Section 3—Stock of the corporation*

This section states that the Secretary of the Treasury shall hold OPIC's capital stock. The language updates section 232 of current law by striking the reference to OPIC's start-up capital and initial issuance of stock.

*Section 4—Equity financing program*

This section extends the authority of the pilot equity program until September 30, 1997, and removes geographic restrictions on the program. In addition, this provision authorizes funding to \$45 million as a transfer from OPIC's non-credit income and revenues or transfers to OPIC under authorities provided under the Act.

*Section 5—Raising ceiling on investment guaranties*

This section raises the ceiling on OPIC's investment guaranty authority from \$1.5 billion to \$3.5 billion. As of September 30, 1991, the aggregate amount of investment guaranties authorized or committed totaled \$1.02 billion. OPIC's annual guaranty authority has been increased to meet the growing demand for OPIC guaranties. The new ceiling of \$3.5 billion would allow the Corporation to operate the investment guaranty program at the increased levels expected through the term of the proposed reauthorization.

*Section 6—Extending issuing authority*

This section extends the authority of OPIC to issue investment insurance and guaranties until September 30, 1997.

*Section 7—Conforming amendments for credit reform*

This section contains technical language to conform existing law to the provisions of the Federal Credit Reform Act of 1990 and to simplify handling of the separate accounts that would be required for common overhead and other administrative expenses. A new subsection is added clarifying OPIC's authority to expend funds in the financing accounts established pursuant to the Federal Credit Reform Act for project-related transactional costs. (At the same time, language is added also clarifying OPIC's authority to apply fees collected for the direct costs associated with its non-credit related investor-specific activities as well as its conferences and seminars.) This section would also clarify the relationship to credit reform of OPIC's authority to protect the value of local currency received as salvage on insurance claims by re-investing such local currency in the local economy.

*Section 8—Penalties for false statements*

This section enhances OPIC's authority to reduce loan losses by expanding OPIC's authority to pursue borrowers who make fraudulent statements to induce OPIC to lend funds. OPIC would be added to the list of U.S. agencies authorized under Title 18 to seek special criminal penalties against borrowers who knowingly make false statements in the course of applying for assistance.

OVERSEAS PRIVATE  
INVESTMENT CORPORATION,  
Washington, DC, March 5, 1992.

HON. DAN QUAYLE,  
President of the Senate,  
Washington, DC.

DEAR MR. PRESIDENT: Attached is draft legislation "To amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation."

The Office of Management and Budget advises that there is no objection to the submission of this proposal to Congress and that

its enactment would be in accord with the President's program.

## PURPOSE OF THE LEGISLATION

In the twenty years of its existence, the Overseas Private Investment Corporation (OPIC) has helped encourage American private investment overseas in order to improve U.S. competitiveness, create American jobs, and increase U.S. exports while assisting with the economic development of the host country.

The dramatic changes taking place around the world have focused even greater attention on the opportunities for private investment to assist the economies of developing countries and emerging democracies. This legislative proposal will strengthen and reauthorize for five years OPIC's increasingly important investment insurance and guaranty programs.

OPIC's programs have operated since the Marshall Plan, providing loans and political risk insurance to American companies expanding into new markets throughout the developing world. Operating on a self-sustaining basis, OPIC has become a very important tool in U.S. trade and foreign policy.

OPIC is one of the real success stories among U.S. Government programs. OPIC programs create U.S. jobs and promote U.S. exports. The projects OPIC supported just since 1988 are producing \$5.4 billion in U.S. exports over a five-year period and supporting 63,700 person-years of U.S. employment. OPIC does not promote, finance or insure projects which could have a negative impact on U.S. employment or the host country environment.

OPIC is run on a sound financial basis. Since its establishment in 1971, OPIC programs have been run profitably each year, and OPIC has returned to the U.S. Treasury its original start-up funds of \$106 million. Net profit in FY 1991 reached a record \$150 million bringing total reserves as of September 30, 1991 to more than \$1.7 billion, or 45 percent of outstanding contingent liabilities. OPIC management is implementing aggressively the new credit reform law. In fact, OPIC credit administration policies and procedures have long embodied the principles of credit reform.

In focusing on the needs of developing countries and emerging democracies, traditional government aid alone is not sufficient. Private sector investment is becoming the major engine of development around the world and will be key, for example, to securing the free market economies that will be the underpinning of the emerging democracies in Central and Eastern Europe. There is, however, significant international competition from all countries whose businesses are also seeking new markets and export and investment opportunities.

The challenge to OPIC is to be there to help U.S. business compete in this international marketplace. As President Bush has said, "American business can out-think, out-work, out-perform any nation in the world. But we can't beat the competition if we don't get in the ball game." OPIC is there to help equip American businesses, large and small, that want to compete in this rapidly changing world.

The central purpose of the proposed legislation is to extend OPIC's current operating authority for five years, with minimal structural changes. There are, however, two important new initiatives which merit special attention, as follows:

## ENCOURAGING GREATER PARTICIPATION BY SMALL BUSINESS

To improve OPIC's assistance to U.S. small businesses and cooperatives, the proposal re-

moves the present geographic limitations on OPIC's equity financing program. This would significantly expand OPIC's ability to increase small business participation in international trade and investment. This program provides small amounts of capital to projects, particularly those sponsored by small business, that are unable to arrange other financing.

## STRENGTHENING SOUND FINANCIAL PRACTICES

To strengthen OPIC's excellent record of minimal losses, the proposed bill enhances OPIC's ability to pursue borrowers who make fraudulent statements to induce OPIC to lend funds. OPIC is seeking the ability to use special criminal penalties, identical to those available to certain other U.S. agencies, against borrowers who knowingly make false statements in the course of applying for assistance. This sends a clear message that while aggressively promoting private investment in developing countries and emerging democracies, OPIC will be financially conservative and tenacious in seeking repayment by borrowers.

I strongly urge that Congress enact this legislation on a timely basis to promote the international competitive position of U.S. private enterprise, increase American exports and create U.S. jobs, as well as foster economic growth in developing countries and emerging democracies.

Sincerely,

FRED M. ZEDER,  
President and  
Chief Executive Officer.

By Mr. DODD:

S. 2339. A bill to establish a program to provide child care through public-private partnerships, and for other purposes; to the Committee on Labor and Human Resources.

CHILD CARE PUBLIC-PRIVATE PARTNERSHIP ACT  
OF 1992

• Mr. DODD. Mr. President, today I am introducing the Child Care Public-Private Partnership Act of 1992. This bill addresses an area of grave concern to working parents and their employers.

It is no secret that America is no longer a country where the father is the sole breadwinner for the family and the mother stays at home and bakes bread for their 2.2 children. Today, 63 percent of mothers who are married are in the work force. Most of these women say they work because they must in order to meet the economic needs of their family. An increasing number of households are headed by one parent, and more than half of all single mothers are in the work force. In Connecticut alone, that translates to more than 300,000 children who need child care. Finding quality child care is a task that parents all over America agonize over, particularly in the case of very young children. In my own State of Connecticut, nearly 40 percent of children under the age of 3 require child care outside the home. To add to the burden, these parents must find quality care that is also convenient and affordable. It is a source of great frustration to parents everywhere. And parents are not alone in this frustration.

In 1990, Congress responded to these concerns. The landmark Child Care and

Development Block Grant Program now provides significant funds to States to assist families with the costs of child care services and to improve the quality of child care services. That block grant is a solid foundation upon which we must build further, given the tremendous need of working parents. The legislation which I am introducing today encourages businesses to become even more involved.

Certainly, businesses are demonstrating a real concern about the issue of child care. They increasingly recognize the importance of the relationship between work and family. Companies now view corporate policies and practices that address work and family issues as essential to attracting and keeping employees, improving productivity, improving their competitiveness within the industry, and as being necessary to competing successfully in a global economy.

In the past few years, we have seen some very important and innovative efforts undertaken by business. For example, we have seen companies providing on site child care, revolving loan funds used to create, expand, and improve child care centers, and business-funded training to child care providers. Connecticut has been the site of many such innovations.

One of the most promising developments I have seen in recent years is the growth of public-private partnerships. The Committee on Labor and Human Resources Subcommittee on Children, Family, Drugs and Alcoholism, which I chair, held hearings yesterday on various public-private partnerships that are in place around the country. We heard from groups like the Danbury Schools and Business Collaborative in Danbury, CT. They have a very effective partnership which brings the business community together with the teachers and students, under the direction of the school board in an effort to improve the public schools and assist individual students. I am encouraged by the power of this type of partnership and believe that we should create more opportunities for it to work. We especially ought to harness that interest to address the compelling issue of inadequate child care resources. It is for this reason that I have introduced the Child Care Public-Private Partnership Act of 1992.

This bill would authorize the Secretary of the Department of Health and Human Services to make grants: first, to businesses to pay startup costs for child care services to provide additional child care services to their employees; and second, to nonprofit organizations to provide technical assistance to such businesses. Grantees must provide matching funds equal to 200 percent of the amount of the grant funds. The Federal Government would be providing \$25 million annually in much needed seed money to spur pri-

ivate investment—and investment that clearly has payoffs for everyone concerned.

Mr. President, child care services funded through this bill must be affordable an available to low- and moderate-income employees. These are the employees who have the fewest options for child care, and accordingly resources should be steered in that direction. In addition, the bill gives priority to businesses that have fewer than 100 full-time employees because small businesses often do not have the resources available to them that large businesses do.

This legislation by itself will not resolve the crisis in child care, but it is an important step that we must take to complement what we began with the child care and development block grant. Public-private partnerships are a proven way to combine the strengths of government and the private sector. This bill will provide resources to those who need them most—low to moderate-income parents. It will in turn benefit the small businesses for which they work by enabling them to offer competitive work and family programs which attract and keep good employees, and increase their productivity. It is a small step that will make a big difference.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2339

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Public-Private Partnership Act of 1992".

#### SEC. 2. ESTABLISHMENT OF BUSINESS INCENTIVE GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to—

- (1) businesses and consortia—
  - (A) to pay start-up costs incurred to provide child care services; or
  - (B) to provide additional child care services; needed by the employees of such businesses; and
- (2) nonprofit business organizations to provide technical information and assistance to enable businesses to provide child care services.

#### SEC. 3. ELIGIBILITY TO RECEIVE GRANTS.

To be eligible to receive a grant under section 2, a business, nonprofit business organization, or consortium shall submit to the Secretary an application in accordance with section 4.

#### SEC. 4. APPLICATION.

The application required by section 3 shall be submitted by a business, nonprofit business organization, or consortium at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

- (1) an assurance that the applicant shall expend, for the purpose for which such grant

is made, an amount equal to not less than 200 percent of the amount of such grant;

- (2) an assurance that such applicant will expend such grant for the use specified in paragraph (1) or (2) of section 2, as the case may be;

- (3) an assurance that such applicant will employ strategies to ensure that child care services provided by such applicant, or provided with the technical information and assistance made available by such applicant, are provided at affordable rates, and on an equitable basis, to low- and moderate-income employees;

- (4) an assurance that such applicant—

- (A) in the case of a business or consortium, will comply with all State and local licensing requirements applicable to such business or consortium concerning the provision of child care services; or

- (B) in the case of a nonprofit business organization, will employ procedures to ensure that technical information and assistance provided under this Act by such business organization will be provided only to businesses that provide child care services in compliance with all State and local licensing requirements applicable to child care providers in such State; and

- (5) in the case of a business or consortium, an assurance that if the employees of such applicant do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such applicant, the excess of such child care services shall be made available to families in the community in which such applicant is located.

#### SEC. 5. SELECTION OF GRANTEEES.

For purposes of selecting applicants to receive grants under this Act, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall—

- (1) make grants equitably under this Act to applicants located in all geographical regions of the United States; and
- (2) give priority to applicants for grants under section 2(1).

#### SEC. 6. DEFINITIONS.

As used in the Act:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) CHILD CARE SERVICES.—The term "child care services" means care for a child that is—

- (A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and
- (B) subsidized at least in part by the business that employs such parent.

(3) CONSORTIUM.—The term "consortium" means 2 or more businesses acting jointly. A consortium may also include a nonprofit private organization.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$25,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.●

By Mr. D'AMATO (for himself, Mr. MCCAIN, and Mr. SPECTER):  
S. 2340. A bill to require the transfer of certain closed military installations to the Department of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in

resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes; to the Committee on the Judiciary.

THE CRIMINAL ALIEN AND PRISON  
OVERCROWDING ACT

• Mr. D'AMATO. Mr. President, I rise today to introduce the Criminal Alien and Prison Overcrowding Act, together with my colleagues, Senators MCCAIN and SPECTER. Congressman SCHUMER is introducing the House comparison bill, with a number of other Congressmen.

The problem of criminal aliens crowding our prisons grows worse by the day. According to the Immigration and Naturalization Service [INS], more than 41,000 foreign-born criminals are now incarcerated in State prisons. I ask unanimous consent that the full text of the Criminal Alien and Prison Overcrowding Act, together with a copy of INS' State-by-State breakdown of foreign-born State prison inmates, be printed in their entirety immediately following my remarks.

In hearings before the House Subcommittee on Immigration, Refugees, and International Law in 1989, the General Accounting Office [GAO] testified that over 72,000 aliens will be arrested yearly on felony drug charges. GAO added that about 20 percent of the total prison population—600,000—or about 120,000 prisoners are deportable.

The Criminal Alien and Prison Overcrowding Act has two basic provisions: First, it provides for the transfer of three closed military bases to the Justice Department for the detention of criminal and excludable aliens; and second, it authorizes \$100 million annually in grants to State and local governments to help them cope with the enormous cost of housing criminal aliens in their prisons and jails.

The Federal Government's failure to shoulder its responsibility in this area has had a totally predictable result. Again and again, deportable criminal aliens are released on bond, fail to appear for their deportation hearings, and abscond onto our streets, where they add to the Nation's drug and violent crime epidemic. This is nothing less than a public safety emergency, the response to which must include expanded Federal, State, and local prison and jail capacity. For this reason, I urge my colleagues to cosponsor the Criminal Alien and Prison Overcrowding Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2340

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Short Title: The Criminal Alien and Prison Overcrowding Act.

SECTION 1. TRANSFER OF CERTAIN CLOSED  
MILITARY INSTALLATIONS TO THE  
DEPARTMENT OF JUSTICE.

Notwithstanding any other provision of law, the Secretary of Defense shall transfer

to the jurisdiction of the Department of Justice three military installations that are closed pursuant to a base closure law and that the Attorney General determines, after consultation with appropriate State, local, and community authorities, to be suitable for the detention of excludable aliens and aliens incarcerated in State prison.

SEC. 2. TRANSFER OF CERTAIN ALIENS TO  
CLOSED MILITARY INSTALLATIONS.

(a) TRANSFER OF ALIENS INCARCERATED IN STATE PRISON.—(1) Subject to subsection (b), the Attorney General shall enter into an agreement with the appropriate officials of each State for the transfer of the number of excludable aliens and aliens incarcerated in State prison in such State which bears the same ratio to the number of all such aliens in the United States to the military installations referred to in section 1.

(b) MINIMUM REQUIREMENTS.—The Attorney General shall ensure that space for not less than 4,500 is available to incarcerate aliens transferred under paragraph (1).

SEC. 3. DEFINITIONS.

In sections 1 and 2 of this Act:

(1) The term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(2) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(3) The term "aliens incarcerated in State prison" means any alien who is excludable, deportable, or without documentation under the United States immigration laws and who is incarcerated in the prison of a State.

(4) The term "excludable alien" means any alien who is within the United States in violation of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

SEC. 4. GRANTS TO STATES RELATING TO THE  
INCARCERATION OF CERTAIN ALIENS.

(a) GRANT PROGRAM.—Part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769 et seq.) is amended—

(1) by inserting after the matter relating to the part head the following:

"Subpart 1—Criminal Justice Facilities"; and

(2) by adding at the end the following new subpart:

"Subpart 2—Incarceration of Certain Aliens

"GRANTS

"SEC. 611. The Director shall make grants to States to assist States and units of local government in relieving the burden placed on the correctional facilities of such States and units of government as a result of alien criminals incarcerated in State correctional facilities. The Director shall make such grants in accordance with this subpart.

"ELIGIBILITY FOR GRANTS

"SEC. 612. (a) A State shall be eligible to receive a grant under this subpart in any fiscal year in which such grants are made if—

"(1) the Governor of the State submits to the Director an application for the grant in accordance with this section; and

"(2) the Director determines that the application meets the requirements referred to in subsection (b).

"(b) An application submitted under this section shall include—

"(1) a statement by the Governor of the number of alien criminals incarcerated in State correctional facilities in such State; and

"(2) such other information as the Director may reasonably require.

"(c) The Governor shall submit an application—

"(1) in fiscal year 1993, not later than 60 days after the date on which the Director prescribes regulations under this subpart; and

"(2) in each of fiscal year 1994 and 1995, not later than 60 days after the date on which funds are appropriated or otherwise made available for the respective fiscal year for grants under this subpart.

"AMOUNT OF GRANTS

"SEC. 613. (a) In each fiscal year in which funds are appropriated or otherwise made available for grants under this subpart, the Director shall determine—

"(1) the number of alien criminals incarcerated in State correctional facilities in each State for which an application is submitted under section 612; and

"(2) the total number of such aliens in all States for which applications are submitted under such section.

"(b) In each fiscal year in which funds are appropriated or otherwise made available for the respective fiscal year for grants under this subpart the Director shall allot to each participating State an amount which bears the same ratio to the number of excludable aliens and aliens incarcerated in State prisons in such State (as determined under subsection (a)(1) to the total number of such aliens in all States (as determined under subsection (a)(2)).

"REGULATIONS

"SEC. 614. The Director shall prescribe regulations under this subpart not later than 90 days after enactment.

"DEFINITIONS

"SEC. 615. As used in this subpart—

"(1) 'Alien criminals incarcerated in State correctional facilities' means aliens convicted of crimes under State or local law of such State and incarcerated in correctional facilities of the State or unit of local government of the State (other than in any Federal correctional facilities located within the State).

"(2) 'Governor' means the Governor or chief executive officer of a State, as the case may be."

(b) CONFORMING AMENDMENTS.—(1) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by inserting after the item relating to part F the following new item:

"SUBPART 1—CRIMINAL JUSTICE FACILITIES"; and

(B) by inserting after the item relating to 606 the following new matter:

"SUBPART 2—INCARCERATION OF CERTAIN ALIENS

"Sec. 611. Grants.

"Sec. 612. Eligibility for grants.

"Sec. 613. Amounts of grants.

"Sec. 614. Regulations.

"Sec. 615. Definitions."

(2) Section 601 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769) is amended by striking "part," and inserting "subpart,".

(3) Section 602 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769a) is amended by striking "part" each place it appears and inserting "subpart".

(4) Section 603(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769b) is amended in the matter above paragraph (1) by striking "part" and inserting "subpart".

(5) Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(A) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(B) by adding after paragraph (9) the following:

"(10) There are authorized to be appropriated \$100,000,000 for each of the fiscal years 1993, 1994, and 1995 to carry out the grant program established under subpart 2 of part F of this title."

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out sections 1 and 2 of this Act, including activities relating to any construction, renovation, or other improvement of the military installations referred to in section 1 that is necessary to permit the transfer of aliens referred to in section 2.

#### U.S. DEPARTMENT OF IMMIGRATION AND NATURALIZATION

(Figures as of Sept. 1, 1991)

State	Total	Foreign
Alabama	16,545	9
Alaska	2,546	27
Arizona	14,941	456
California	101,516	17,411
Colorado	8,284	352
Connecticut	10,739	58
Delaware	3,64	857
District of Columbia	1,694	4
Florida	46,474	2,484
Georgia	23,519	84
Hawaii	2,415	126
Idaho	2,041	68
Illinois	28,793	1,362
Indiana	17,226	84
Iowa	4,100	16
Kansas	5,694	170
Kentucky	9,580	40
Louisiana	14,844	165
Maine	1,664	18
Maryland	18,316	146
Massachusetts	8,835	545
Michigan	35,501	394
Minnesota	3,423	84
Mississippi	8,780	44
Missouri	15,305	164
Montana	1,329	8
Nebraska	2,504	35
Nevada	5,960	400
New Hampshire	1,655	67
New Jersey	18,568	658
New Mexico	3,154	176
New York	57,636	7,151
North Carolina	18,642	15
North Dakota	4	565
Ohio	34,548	143
Oklahoma	13,308	143
Oregon	6,520	93
Pennsylvania	22,965	387
Rhode Island	2,249	193
South Carolina	16,684	28
South Dakota	1,394	19
Tennessee	14,191	31
Texas	49,918	4,998
Utah	2,598	71
Vermont	1,050	25
Virginia	16,474	753
Washington	8,960	620
West Virginia	1,739	2
Wisconsin	7,481	183
Wyoming	973	23

Source: State Department of Corrections.

By Mr. CRANSTON (for himself, Mr. D'AMATO, Mr. SARBANES, Mr. KERRY, Mr. LIEBERMAN, and Mr. AKAKA):

S. 2341. A bill to provide for the assessment and reduction of lead-based paint hazards in housing; to the Committee on Banking, Housing, and Urban Affairs.

#### RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT

• Mr. CRANSTON. Mr. President, today I am pleased to introduce the

Residential Lead-Based Paint Hazard Reduction Act of 1992, a bill designed to expand significantly the commitment of the Federal Government to reduce and eliminate lead-based paint hazards in older homes.

Lead poisoning is the most serious environmental health problem facing America's children today. The Centers for Disease Control now considers over 3 million American children to have unsafe levels of lead in their blood—17 percent of all children under the age of 6. In some inner city communities, the percentage of poisoned children exceeds 75 percent—virtually an entire generation affected by this debilitating disease.

Even low levels of lead poisoning can permanently damage the physical, emotional and mental development of a child. A victim can suffer irreversible learning and reading disabilities, reduced IQ, shortened attention span, hyperactivity and hearing loss. The societal effects are devastating—lower educational achievement, higher dropout rates, and diminished economic competitiveness. It is becoming abundantly clear that national efforts to rebuild our communities, improve our schools, halt drug abuse and motivate students to succeed will be frustrated unless we address the problem posed by childhood lead poisoning.

We now know that lead poisoning is caused primarily not by children eating paint chips in dilapidated buildings, but by children breathing and ingesting lead dust—generated through home renovation and through common wear and tear of household paint. In fact, the simple act of a child touching a windowsill and then placing his hand in his mouth—an act repeated daily countless times throughout this country—is a major conduit for ingesting lead dust.

Lead-based paint was used pervasively in America's housing stock before 1978—the year such paint was banned. Three quarters of all America's housing—57 million homes—contain lead-based paint. Contrary to ordinary expectations, lead-based paint is just as common in the homes of the rich as the poor, in owner-occupied housing as rental units.

The hazards of lead-based paint, however, are not distributed democratically throughout the housing inventory. HUD estimates that 3.8 million homes and apartments present priority risks—that is, are occupied by young children and have peeling paint, excessive amounts of lead dust, or both. Not surprisingly, these homes and apartments tend to be located in distressed, urban areas—where the housing inventory is old and deteriorating. Victims of lead poisoning are, therefore, disproportionately low-income, minority children—children whose opportunities in life are already curtailed by extreme poverty, inadequate health care, sub-

standard housing and poor schools. Yet children of any race or income strata are put at risk when lead-based paint is disturbed during the renovation of their homes unless proper precautions are taken.

We have reached a watershed mark in the national response to childhood lead poisoning. After years of research, development and experimentation, we have learned much about how to reduce lead hazards and are learning more all the time. We have the technology to assess housing for the presence of lead hazards. We know how to remove or seal in household lead without harm to workers or future occupants. We also know of simple, inexpensive measures which can greatly reduce the risk of harm from existing lead hazards. Finally, we know the risks of do-it-yourself home renovation work and how these risks can be avoided.

Despite this significant knowledge and expertise, the Federal Government still lacks a comprehensive, coherent and cost-effective strategy to reduce the hazards of lead-based paint.

Federally owned homes—contaminated with lead-based paint hazards—continue to be sold to unsuspecting buyers. Developers across the nation continue to use federal subsidies to rehabilitate older housing and, in the process, increase the risk of exposing residents to lead hazards. And state and local governments neglect to address lead concerns when formulating their comprehensive housing affordability strategies.

Even reliable, easy to understand information for homeowners, landlords and renters—crucial to preventing lead poisonings—is unavailable in many areas of the country. Homeowners conducting self-help renovation, therefore, remain uninformed about the dangers of increasing hazards by disturbing lead-based paint.

Most significantly, the infrastructure for carrying out assessment and reduction activities—certified laboratories and contractors, trained workers, available financing and insurance—remains in an infant state. HUD estimates, for example, that only 350,000 to 500,000 homes could be tested for lead-based paint annually, given the present capacity of the industry.

Only in public housing is HUD—under persistent prodding from Congress—implementing a full scale testing and abatement program.

It is clear that some interests do not want the Federal Government to expand its efforts in the lead-based paint area. They would prefer that the problem just "go away" and not add another layer of cost and complexity to housing.

Yet, while reducing the hazards posed by residential lead-based paint is costly, doing nothing costs far more. One report by the Centers for Disease Control estimates that the social costs of

medical treatment, special education and lost productivity are essentially double the cost of removing lead from contaminated homes. In addition, the proliferation of tort litigation in many parts of the nation has made liability a growing concern for owners and managers of housing, including the Federal Government.

The Residential Lead-Based Reduction Act of 1992 would take a series of immediate steps to get the Nation moving quickly on the most dangerous lead-based paint hazards—homes with deteriorating or accessible lead-based paint or high levels of lead dust that are occupied by low income families with young children.

The bill would establish a \$500 million matching grant program to make the Federal Government an active partner with cities, states and the private sector to assess and reduce lead-based paint hazards in non-federal housing; require HUD to carry out an aggressive, comprehensive and cost-effective strategy to assess and reduce lead-based paint hazards in federally assisted housing; require that all homes sold by the Federal Government be lead safe; make concern for lead-based paint hazards in integral part of Federal, State, local and private housing strategies and decisions; build the capacity of private industry to assess and reduce lead-based paint hazards safely and effectively; inform potential buyers and residential tenants of the hazards of lead and of available remedial measures, give home buyers the opportunity to have lead hazard assessments performed prior to purchase, and after certain conditions are met, require lessors to perform such assessments prior to lease; and provide the public with accurate information about the nature of lead-based paint hazards and technical assistance on how to prevent them.

Several of the disclosure provisions in this bill track other legislative efforts currently underway. I want to commend the efforts of Congressman WAXMAN and Senators BURDICK, REID, LIEBERMAN, and CHAFEE for their leadership in this area. I am particularly encouraged by the cooperative relationship which has developed between the Senate Banking Committee and Environment and Public Works Committee. Clearly, success of the Federal response to childhood lead poisoning depends upon coordination between the various Congressional Committees and Federal agencies.

I intend to move this legislation as quickly as possible. On March 19, I will hold the subcommittee's second hearing on this legislation—to be attended by the leading experts in the housing, health, and environmental fields. I will refine the legislation on a bipartisan basis with other members of the Banking Committee and Senate, particularly, Senators D'AMATO, SARBANES,

KERRY, LIEBERMAN, and AKAKA—all of whom have joined me today as original cosponsors.

Together, we can and we must commit the Federal Government to an aggressive, comprehensive, and cost-effective assault on the health threat imperiling our Nation's children and our Nation's future.

Mr. President, I ask unanimous consent that the bill be printed at this place in the RECORD along with a summary of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2341

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Residential Lead-Based Paint Hazard Reduction Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

#### TITLE I—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION

- Sec. 101. Grants for lead-based paint hazard reduction in target housing.
- Sec. 102. Assessment and reduction of lead-based paint hazards in Federal housing programs.
- Sec. 103. Disposition of federally owned housing.
- Sec. 104. Comprehensive housing affordability strategy.
- Sec. 105. Assessment and reduction of lead-based paint hazards under FHA insurance programs.
- Sec. 106. Task force on private sector financing of lead-based paint hazard reduction.
- Sec. 107. National consultation on lead-based paint hazard reduction.

#### TITLE II—ASSESSMENT AND REDUCTION INFRASTRUCTURE

- Sec. 201. Contractor training and certification.
- Sec. 202. Certification of laboratories.
- Sec. 203. Guidelines for lead-based paint assessment and reduction activities.
- Sec. 204. Monitoring of lead-based paint hazard work.
- Sec. 205. National clearinghouse on childhood lead poisoning.

#### TITLE III—PUBLIC INFORMATION AND TECHNICAL ASSISTANCE

- Sec. 301. Disclosure of information concerning lead upon transfer of residential property.
- Sec. 302. General notice requirements.
- Sec. 303. Public awareness.
- Sec. 304. Information and warning labels.
- Sec. 305. Relationship to other laws.

#### TITLE IV—FORMULATION OF A NATIONAL STRATEGY

- Sec. 401. National strategy.

#### TITLE V—RESEARCH AND DEVELOPMENT

##### Subtitle A—HUD Research

- Sec. 501. Research on lead exposure from other sources.
- Sec. 502. Testing technologies.

Sec. 503. Authorization.

Subtitle B—GAO Report

Sec. 511. Insurance study.

#### TITLE VI—REPORTS

Sec. 601. Reports of the Secretary of Housing and Urban Development.

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority- and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1978 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified contractors and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to assess risk and reduce hazards in the Nation's housing stock;

(2) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard assessment and reduction and by ending the current confusion over reasonable standards of care;

(3) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(4) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for assessing and reducing lead-based paint hazards;

(5) to reduce the threat of childhood lead poisoning in housing owned or assisted by the Federal Government; and

(6) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible.

## SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) **ABATEMENT.**—The term "abatement" means any measure designed to permanently eliminate lead-based paint hazards. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint and the replacement of lead-painted surfaces and fixtures; and

(B) all preparation, cleanup, worker protection, disposal, and postabatement clearance testing activities associated with such measures.

(2) **ACCESSIBLE SURFACE.**—The term "accessible surface" means a surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) **ASSESSMENT.**—The term "assessment" means the evaluation of the nature and severity of lead-based paint hazards using information on the age and condition of the housing, data collected from risk assessments or inspections, and such other information as may be appropriate.

(4) **CERTIFIED CONTRACTOR.**—The term "certified contractor" means an inspector, worker, supervisor, contractor, or designer who has completed a training program certified by the appropriate Federal agency and in the case of an inspector, contractor, or supervisor, who has met any other requirements for certification or licensure established by such agency or who has been certified by any State whose certification program has been found by the appropriate Federal agency to be at least as rigorous as the Federal certification program.

(5) **CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.**—The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(6) **FEDERALLY ASSISTED HOUSING.**—The term "federally assisted housing" means housing assisted under—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 101 of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) section 515 of the Housing Act of 1949.

(7) **FEDERALLY CHARTERED SECONDARY MORTGAGE INSTITUTION.**—The term "federally chartered secondary mortgage institution" means an institution chartered by law that buys mortgage loans from originating financial institutions and resells them to investors. Such term includes the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Association.

(8) **FEDERALLY OWNED HOUSING.**—The term "federally owned housing" means housing owned by a Federal agency, including the Department of Housing and Urban Development, the Farmers Home Administration, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Department of Transportation.

(9) **FEDERALLY SUPPORTED WORK.**—The term "federally supported work" means any assessment or reduction activities conducted

in federally owned or assisted properties or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) **FRICTION SURFACE.**—The term "friction surface" means a surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) **IMPACT SURFACE.**—The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) **INSPECTION.**—The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint.

(13) **INTERIM CONTROLS.**—The term "interim controls" means measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, structural repairs, maintenance, painting and temporary containment.

(14) **LEAD-BASED PAINT.**—The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established by the appropriate Federal agency pursuant to this Act.

(15) **LEAD-BASED PAINT HAZARD.**—The term "lead-based paint hazard" means any hazard to human health caused by exposure or likely exposure to lead from lead-contaminated dust, peeling paint, accessible surfaces, friction surfaces, or impact surfaces.

(16) **LEAD-CONTAMINATED DUST.**—The term "lead-contaminated dust" means interior house surface dust which contains an area or mass concentration of lead which may pose a threat of adverse health effects in pregnant women or young children, the concentration limits of which shall be established by the appropriate Federal agency pursuant to this Act.

(17) **LEAD HAZARD REDUCTION.**—The term "lead hazard reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(18) **LEAD-SAFE RESIDENTIAL DWELLING.**—The term "lead-safe residential dwelling" means a residential dwelling that contains no actual or potential lead-based paint hazards or one in which all lead-based paint hazards have been abated.

(19) **MORTGAGE LOAN.**—The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(20) **ORIGINATING MORTGAGE INSTITUTION.**—The term "originating mortgage institution" means a lender that provides mortgage loans, as defined by this section.

(21) **PEELING PAINT.**—The term "peeling paint" means any paint that is peeling, chipping, or cracking or any paint located on a surface or fixture that is damaged or deteriorated.

(22) **PUBLIC HOUSING.**—The term "public housing" has the same meaning given the

term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(23) **RESIDENTIAL DWELLING.**—The term "residential dwelling" means—

(A) a single-family dwelling; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) **RESIDENTIAL REAL PROPERTY.**—The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) **RISK ASSESSMENT.**—The term "risk assessment" means an on-site investigation to determine the existence of lead-based paint hazards, including sampling of lead contained in interior surface dust.

(26) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

(27) **TARGET HOUSING.**—The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

#### TITLE I—LEAD-BASED PAINT HAZARD REDUCTION

#### SEC. 101. GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION IN TARGET HOUSING.

(a) **GENERAL AUTHORITY.**—The Secretary is authorized to provide grants to eligible applicants to assess and reduce lead-based paint hazards in target housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section.

(b) **ELIGIBLE APPLICANTS.**—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) **FORM OF APPLICATIONS.**—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants made available under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of assistance to be employed in using grants made available under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) **SELECTION CRITERIA.**—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6;

(2) the extent to which the proposed activities will benefit families that meet the income limits prescribed by section 214 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744);

(3) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(4) the ability of the applicant to leverage State, local, and private funds to supplement the grant made available under this section;

(5) the ability of the applicant to carry out the proposed activities; and

(6) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) **ELIGIBLE ACTIVITIES.**—A grant under this section may be used to—

(1) assess target housing units for lead-based paint hazards;

(2) provide for the interim control of lead-based paint hazards;

(3) provide for the abatement of lead-based paint hazards;

(4) provide for the additional cost of abating lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that assessments and other activities are carried out by trained personnel;

(6) assist in the temporary relocation of families forced to vacate their housing while lead hazard reduction measures are being conducted;

(7) help educate the public on lead-based paint hazards and measures to reduce exposure to such hazards;

(8) perform periodic testing of children's blood-lead levels and lead dust levels to assure that exposure to lead-based paint hazards does not increase due to improperly conducted reduction activities; and

(9) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) **FORMS OF ASSISTANCE.**—The applicant may provide the services described in this section through a variety of programs, including grants, loans, revolving loan funds, loan funds, loan guarantees, and interest write-downs.

(g) **TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act and to carry out activities under this section.

(2) **SET-ASIDE.**—Of the total amount approved in appropriation Acts under subsection (m), there shall be set aside to carry out this subsection \$2,000,000 for fiscal year 1993 and \$2,000,000 for fiscal year 1994.

(h) **MATCHING REQUIREMENT.**—Each recipient of grants under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the grant under this section.

(i) **LIMITATION ON USE.**—An applicant shall ensure that not more than 10 percent of a grant will be used for administrative expenses associated with the activities funded.

(j) **FINANCIAL RECORDS.**—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(k) **REPORT.**—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant receives a grant under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of housing units assessed for lead-based paint hazards;

(3) states the number of housing units in which hazards have been reduced through interim controls;

(4) states the number of housing units in which hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(l) **PROMULGATION OF REGULATIONS.**—The Secretary shall promulgate regulations for the implementation of this section within 120 days after the date of enactment of this Act. In promulgating such regulations, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, and national organizations that have expertise in lead-based paint hazards and their reduction.

(m) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of carrying out this Act, there are authorized to be appropriated \$250,000,000 for fiscal year 1993 and \$250,000,000 for fiscal year 1994.

#### SEC. 102. ASSESSMENT AND REDUCTION OF LEAD-BASED PAINT HAZARDS IN FEDERAL HOUSING PROGRAMS.

(a) **GENERAL REQUIREMENTS.**—Section 302(a) of the Lead-Based Paint Poisoning Prevention Act is amended—

(1) in the first sentence, by inserting before the period "or otherwise assisted under a federal housing program";

(2) in paragraph (1) of the second sentence, by striking "to eliminate as far as practicable immediate hazards due to the presence of accessible intact, intact and non-intact interior and exterior painted surfaces that may contain lead" and insert "to assess, reduce and eliminate as far as practicable lead-based paint hazards"; and

(3) by adding after the second sentence, the following new sentence: "Not later than January 1, 1995, such procedures shall require the assessment and reduction of lead-based paint hazards in all federally assisted housing constructed or substantially rehabilitated prior to 1978 and in all target housing that is assisted under a Federal housing program, where the level of Federal assistance exceeds \$5,000.".

(b) **HOME INVESTMENT PARTNERSHIPS.**—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended by adding at the end the following new paragraph:

"(5) **LEAD-BASED PAINT HAZARDS.**—A participating jurisdiction may use funds provided under this subtitle for the assessment and reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(c) **COMMUNITY DEVELOPMENT BLOCK GRANTS.**—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) lead-based paint hazard assessment and reduction, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(d) **SECTION 8 RENTAL ASSISTANCE.**—Section 8(c)(2)(B) of the United States Housing Act of 1937 is amended by adding at the end the following sentence: "The Secretary may (at the discretion of the Secretary and subject to

the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents to cover the costs of assessing and reducing lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(e) **HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.**—The United States Housing Act of 1937 is amended—

(1) in section 302(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) assessments of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992;" and

(2) in section 303(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by adding after paragraph (3) the following:

"(4) Reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(f) **HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.**—The Cranston-Gonzalez National Affordable Housing Act is amended—

(1) in section 422(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) assessments of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992;" and

(2) in section 423(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(g) **HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.**—The Cranston-Gonzalez National Affordable Housing Act is amended—

(1) in section 442(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) assessments of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992;" and

(2) in section 443(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Reduction of lead-based paint hazards, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(h) **FHA INSURANCE FOR SINGLE FAMILY HOMES.**—

(1) **HOME IMPROVEMENT LOANS.**—Section 2(a) of the National Housing Act is amended in the fourth paragraph—

(A) by inserting after the first sentence the following: "Alterations, repairs, and im-

provements upon or in connection with existing structures may also include the assessment and reduction of lead-based paint hazards." and

(B) by adding at the end the following:

"(4) the terms 'assessment', 'lead hazard reduction', and 'lead-based paint hazard' have the same meanings given those terms in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(2) **REHABILITATION LOANS.**—Section 203(k)(2)(B) of the National Housing Act is amended by adding at the end the following: "The term 'rehabilitation' may also include measures to assess and reduce lead-based hazards, as such terms are defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

(1) **FHA INSURANCE FOR MULTIFAMILY HOUSING.**—Section 221(d)(4)(iv) of the National Housing Act is amended by inserting after the term "rehabilitation" the first time it appears the following: "(including the cost of assessing and reducing lead-based paint hazards, as such terms are defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992)".

#### SEC. 103. DISPOSITION OF FEDERALLY OWNED HOUSING.

Section 302(a) of the Lead-Based Paint Poisoning Prevention Act is amended by adding at the end the following: "Beginning on January 1, 1993, such procedures shall require the inspection and abatement of lead-based paint hazards in all federally owned residential properties constructed prior to 1978, as defined in section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. For purposes of this subsection, the terms 'assess', 'reduce', 'inspection', 'abatement', 'lead-based paint hazard', 'target housing', and 'federally assisted housing' shall have the same meanings provided under section 4 of the Residential Lead-Based Paint Hazard Reduction Act of 1992."

#### SEC. 104. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY.

Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended—

(1) in subsection (b)(14), by striking ";" and inserting a semicolon;

(2) in subsection (b)(15), by striking the period and inserting ";" and";

(3) by inserting after paragraph (15) in subsection (b) the following new paragraph:

"(16) estimate the number of housing units within the jurisdiction that contain lead-based paint hazards, outline the actions proposed or being taken to assess and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs." and

(4) in subsection (e)—

(A) by striking "CONSULTATION WITH SOCIAL SERVICE AGENCIES." and inserting:

"(e) CONSULTATION WITH SOCIAL SERVICE AGENCIES.—

"(1) IN GENERAL.—"; and

(B) by adding at the end the following new paragraph:

"(2) **LEAD-BASED PAINT HAZARDS.**—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned."

#### SEC. 105. ASSESSMENT AND REDUCTION OF LEAD-BASED PAINT HAZARDS UNDER FHA INSURANCE PROGRAMS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall revise the policies and procedures (including underwriting standards and appraisal guidelines) governing the provision of mortgage insurance under the National Housing Act to ensure that such policies and procedures address the need to finance the assessment and reduction of lead-based paint hazards.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report—

(1) describing any action taken pursuant to subsection (a); and

(2) recommending any legislative action (including changes to loan limits) that is needed to facilitate the financing of assessment and reduction activities.

#### SEC. 106. TASK FORCE ON PRIVATE SECTOR FINANCING OF LEAD-BASED PAINT HAZARD REDUCTION.

(a) **IN GENERAL.**—The Secretary shall form a task force to make recommendations on financing the assessment and reduction of lead-based paint hazards in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, primary lending institutions and private mortgage insurers.

(b) **MEMBERSHIP.**—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, national organizations representing primary lending institutions, private mortgage insurers, and national organizations that have expertise in lead-based paint hazards.

#### SEC. 107. NATIONAL CONSULTATION ON LEAD-BASED PAINT HAZARD REDUCTION.

In carrying out the purposes of this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control and other Federal agencies concerned with lead poisoning prevention and national organizations that have expertise in lead-based paint hazards assessment and reduction.

#### TITLE II—ASSESSMENT AND REDUCTION INFRASTRUCTURE

##### SEC. 201. CONTRACTOR TRAINING AND CERTIFICATION.

All federally supported assessment and reduction of lead-based paint hazards shall be conducted by trained contractors certified by the appropriate Federal agency.

##### SEC. 202. CERTIFICATION OF LABORATORIES.

All federally supported assessment of lead-based paint hazards shall be conducted in laboratories certified by the appropriate Federal agency.

##### SEC. 203. GUIDELINES FOR LEAD-BASED PAINT ASSESSMENT AND REDUCTION ACTIVITIES.

(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported risk assessments, inspections, interim controls, and abatements of lead-based paint hazards.

(b) **STATE AND LOCAL REGULATIONS.**—Federally supported work shall be conducted in ac-

cordance with the guidelines issued under this section unless any State or local regulations impose more stringent standards or requirements than the Federal guidelines, in which case such work shall be conducted in accordance with the State or local regulations.

#### SEC. 204. MONITORING OF LEAD-BASED PAINT HAZARD WORK.

(a) **MONITORING BY HUD.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish monitoring systems to oversee closely all federally supported efforts to assess and reduce lead-based paint hazards in housing.

(b) **PENALTY FOR NONCOMPLIANCE.**—Any contractor who performs lead-based paint hazard work under this Act and who fails to comply with the certification requirements of this title, or who negligently performs such work, shall be subject to the penalty described in subsection (c).

(c) **DETERMINATION BY SECRETARY.**—After providing the contractor with notice concerning the nature of the noncompliance and an opportunity to respond, the Secretary shall determine whether the contractor should be declared ineligible to perform any or all work authorized by the Department of Housing and Urban Development. The Secretary may establish procedures for agency review of such determinations, which shall otherwise be final and nonreviewable in any court.

(d) **OTHER REMEDIES.**—A penalty under this section does not preclude the Department of Housing and Urban Development, or any party aggrieved by a contractor, from seeking redress through other means.

#### SEC. 205. NATIONAL CLEARINGHOUSE ON RESIDENTIAL LEAD-BASED PAINT POISONING.

(a) **ESTABLISHMENT.**—The Secretary shall establish, in consultation with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control, a National Clearinghouse on Residential Lead-Based Paint Poisoning (hereafter in this section referred to as "Clearinghouse").

(b) **MISSION.**—The Clearinghouse shall—

(1) collect, evaluate, and disseminate current information on the assessment and reduction of lead-based paint hazards in housing;

(2) maintain a rapid-alert system to inform certified contractors and grant recipients of significant developments in research related to lead-based paint hazards; and

(3) perform any other duty that the Secretary determines necessary to carry out the purposes of this Act.

(c) **AUTHORIZATION.**—Of the total amount approved in appropriation Acts under section 101(m) of this Act, there shall be set aside to carry out this section \$1,000,000 for fiscal year 1993 and \$1,000,000 for fiscal year 1994.

#### TITLE III—PUBLIC INFORMATION AND TECHNICAL ASSISTANCE

##### SEC. 301. DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.

(a) **LEAD DISCLOSURE PROVISIONS IN CONTRACT FOR PURCHASE AND SALE OF TARGET HOUSING.**—

(1) **LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS.**—Within 2 years after the date of enactment of this Act, the Secretary shall promulgate regulations under this subsection for the disclosure of lead-based paint hazards in target housing which is offered for sale. The regulations shall require that before the purchaser is obligated under any contract to purchase the premises, the seller shall—

(A) provide a lead hazard information pamphlet, as prescribed in subsection (c), to the purchaser;

(B) disclose to the purchaser the presence of any known lead-based paint or any known lead-based hazards in such housing and provide to the purchaser any lead hazard assessment report available to the seller; and

(C) permit the purchaser a period of at least 10 days to have the premises assessed for the presence of lead-based paint hazards.

(2) **CONTRACT FOR PURCHASE AND SALE.**—Regulations promulgated under this subsection shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents,

(B) received a lead hazard information pamphlet, and

(C) had an opportunity of at least 10 days before becoming obligated under the contract to purchase the premises to have the premises assessed for the presence of lead-based paint hazards.

The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. An assessment for possible lead-based paint hazards is recommended prior to purchase."

Whenever the seller has entered into a contract with an agent for the purpose of selling a unit of target housing, the regulations promulgated under this subsection shall require the agent, on behalf of the seller, to ensure compliance with the requirements of this subsection.

**(b) LEASE OF TARGET HOUSING.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall promulgate regulations to require every lease for a residential dwelling in target housing to contain the following Lead Warning Statement:

"Every lessee of any residential dwelling built prior to 1978 is notified that such dwelling may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The lessor of a residential dwelling is required to provide the lessee with any information on lead-based paint hazards from risk assessments or inspections in the lessor's possession and notify the lessee of any known lead-based paint hazards. An assessment for possible lead-

based paint hazards is recommended prior to entering into a lease."

**(2) LEAD HAZARD ASSESSMENT.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary shall promulgate regulations that require each owner of target housing offered for rent—

(i) to obtain an assessment of any lead-based paint hazards in the dwelling, and

(ii) to provide a prospective lessee with a lead hazard report for the premises before executing a lease.

(B) **CONDITIONS.**—The Secretary shall promulgate regulations described in subparagraph (A) only after making a determination that—

(i) there are available in all regions of the Nation a sufficient number of individuals certified to carry out the assessment and reduction of lead-based paint hazards, and

(ii) the requirement set forth in subparagraph (A) will not have a deleterious impact on the availability of affordable housing for families with children.

(C) **REPORT TO CONGRESS.**—Not later than 12 months after the date of enactment of this Act, the Secretary shall issue a report to the Congress outlining the schedule for implementing the requirement set forth in subparagraph (A), specifying any barriers that may impede its implementation in a timely fashion, and recommending any legislative or administrative action necessary to remove such barriers.

(c) **LEAD HAZARD INFORMATION PAMPHLET.**—Not later than 2 years after the date of enactment of this Act, after notice and opportunity for comment, the Secretary shall publish, and from time to time revise, a lead hazard information pamphlet to be used in connection with the sale or lease of target housing. The pamphlet shall—

(1) contain information regarding the health risks associated with exposure to lead;

(2) describe the risks of lead exposure for children under 6 years of age, pregnant women, women of child bearing age, and others residing in a dwelling with lead-based paint hazards;

(3) describe the risks of renovation in a dwelling with lead-based paint or lead-based paint hazards;

(4) provide information on approved methods and devices for lead-based paint hazard reduction and their effectiveness in reducing, eliminating, or preventing exposure to lead-based paint hazards;

(5) advise persons how to obtain a list of contractors certified pursuant to section 201 in lead-based paint hazard reduction in the area in which the pamphlet is to be used;

(6) provide information on the presence of lead-based paint or lead-based paint hazards in target housing;

(7) state that a lead-based paint hazard assessment is recommended prior to the purchase, lease, or renovation of target housing; and

(8) provide information on approved methods and devices for lead-based paint hazard assessment, and advise persons how to obtain a list of contractors certified pursuant to section 201 in lead-based paint hazard assessment in the area in which the pamphlet is to be used.

**(d) PENALTIES FOR VIOLATIONS.**—

(1) **MONEY PENALTY.**—Any person who knowingly violates any provision of this section shall be fined an amount not to exceed \$5,000.

(2) **CIVIL LIABILITY.**—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the

mortgage applicant, purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(3) **ACTION BY SECRETARY.**—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(4) **COSTS.**—In any civil action brought for damages pursuant to paragraph (2) of this section, the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees, if the party prevails.

(e) **VALIDITY OF CONTRACTS AND LIENS.**—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(f) **EFFECTIVE DATE.**—Regulations promulgated under this section shall take effect 3 years after the date of enactment of this Act.

**SEC. 302. GENERAL NOTICE REQUIREMENTS.**

Section 302(a)(2) of the Lead-Based Paint Poisoning Prevention Act is amended—

(1) after "purchasers", by inserting "own-ers"; and

(2) by striking "and of the importance and availability of maintenance and removal techniques for eliminating such hazards." and inserting "of the importance and availability of techniques designed to assess, reduce and eliminate such hazards, and of the availability of Federal assistance for undertaking assessment and reduction activities. In the case of housing where assessment and reduction activities have been undertaken, the notification shall also contain a description of the nature and scope of such activities and available information on the location of any remaining lead-based paint on a surface-by-surface basis."

**SEC. 303. PUBLIC AWARENESS.**

(a) **IN GENERAL.**—The Secretary, in cooperation with the heads of other appropriate Federal agencies, shall develop and undertake a campaign to increase public awareness of the dangers of childhood lead poisoning. The campaign shall be designed—

(1) to inform the public of the health consequences of lead exposure;

(2) to describe how to assess and reduce lead-based paint hazards; and

(3) to provide advice about measures to reduce the risk of lead exposure.

The campaign carried out under this subsection shall target parents of young children and persons involved in the rental, sale, and renovation of residential properties.

(b) **COORDINATION.**—The Secretary shall coordinate activities carried out under this section with the President's Committee on Environmental Quality and any other public education efforts being undertaken by Federal agencies.

(c) **LEAD HAZARD HOTLINE.**—The Secretary, in cooperation with other Federal agencies and with State and local governments, shall establish a lead hazard hotline to provide the public with quick, easy-to-understand answers to basic questions about lead-based paint poisoning.

(d) **AUTHORIZATION.**—Of the total amount approved in appropriation Acts under section 101(m), there shall be set aside to carry out this section \$2,000,000 for fiscal year 1993 and \$2,000,000 for fiscal year 1994.

**SEC. 304. INFORMATION AND WARNING LABELS.**

(a) **INFORMATION.**—The Secretary, in consultation with the Chairman of the

Consumer Product Safety Commission, shall develop information to be distributed by retailers of home improvement products to provide consumers with practical information related to the hazards of renovation and remodeling where lead-based paint may be present.

(b) **WARNING LABELS.**—Each manufacturer of hand tools, determined by the Commissioner of the Consumer Product Safety Commission to be commonly used for renovation or remodeling of residential painted surfaces, shall affix an appropriate warning label, as developed by the Commissioner, to advise users to obtain information regarding the hazards of renovation and remodeling in the presence of lead-based paint before such users engage in any activities that could cause hazardous exposures.

#### SEC. 305. RELATIONSHIP TO OTHER LAWS.

(a) **STATE LAWS.**—Nothing in this title shall annul, alter, affect or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the provision of information concerning lead, except to the extent that the Secretary determines that any such law is inconsistent with this section, in which event, such law shall be affected only to the extent of remedying the inconsistency.

(b) **ESTABLISHMENT OF MORE STRINGENT STANDARDS.**—Nothing in this title shall be construed as precluding a State from establishing any standard of liability or other requirement concerning the disclosure of information concerning lead that is more stringent than the requirements of this title.

### TITLE IV—FORMULATION OF A NATIONAL STRATEGY

#### SEC. 401. NATIONAL STRATEGY.

(a) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall formulate a national strategy for eliminating lead-based paint hazards in housing.

(b) **OBJECTIVE.**—The objective of the national strategy is to enable State and local governments to assess and reduce lead-based paint hazards within their respective jurisdictions as soon as practicable and to encourage and assist private sector efforts.

(c) **CONTENTS.**—The national strategy shall—

(1) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, uniform regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(2) assess the extent to which the infrastructure described in paragraph (1) already exists;

(3) describe any legislative or administrative actions that may be necessary to develop the infrastructure described in paragraph (1) in order to meet the goal set forth in paragraph (1); and

(4) estimate the costs of carrying out actions proposed under paragraph (3).

### TITLE V—RESEARCH AND DEVELOPMENT

#### Subtitle A—HUD Research

#### SEC. 501. RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil lead and interior lead dust in carpets, furniture, and forced air ducts.

#### SEC. 502. TESTING TECHNOLOGIES.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for assessing lead-based paint hazards in housing;

(2) develop improved methods for reducing lead-based paint hazards in housing;

(3) develop improved methods for measuring lead in paint films, dust, and soil samples;

(4) establish performance standards for various detection methods, including spot test kits;

(5) establish performance standards for hazard reduction and abatement methods, including encapsulants;

(6) establish appropriate cleanup standards;

(7) evaluate the efficacy of interim controls in various hazard situations;

(8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard assessment and reduction activities funded by this Act.

#### SEC. 503. AUTHORIZATION.

Of the total amount approved in appropriation Acts under section 101(m), there shall be set aside to carry out this section \$5,000,000 for fiscal year 1993 and \$5,000,000 for fiscal year 1994.

### Subtitle B—GAO Report

#### SEC. 511. INSURANCE STUDY.

The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard assessment and reduction activities. In carrying out the assessment, the Comptroller General shall analyze any precedents in the insurance industry for the containment and abatement of environmental hazards in housing, such as asbestos, and shall provide an assessment of the recent insurance experience in the public housing program and shall recommend measures for increasing the availability of liability insurance.

### TITLE VI—REPORTS

#### SEC. 601. REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

(a) **ANNUAL REPORT.**—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this Act;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between reduction and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard assessment and reduction;

(4) describes the results of research carried out in accordance with title V of this Act; and

(5) estimates the amount of Federal assistance annually expended on assessment and reduction activities.

(b) **BIENNIAL REPORT.**—

(1) **IN GENERAL.**—24 months after the date of enactment of this Act, and every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing the provisions of section 301.

(2) **CONTENTS.**—The report shall—

(A) include a statement as to the effectiveness of section 301 in making the public aware of the dangers of lead;

(B) describe the extent to which lead-based paint hazard assessment and reduction is occurring as a result of the administration of section 301; and

(C) include any additional information that the Secretary deems appropriate.

### SUMMARY OF THE RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT

#### PURPOSE

The bill would create a federal partnership with states, localities and the private sector to reduce and eliminate the residential lead-based paint hazards which threaten the health and development of millions of America's children. It would:

Get the nation moving quickly on the most dangerous lead-based paint hazards—homes with deteriorating or accessible lead-based paint or high levels of lead dust that are occupied by low income families with young children;

Establish a \$500 million matching grant program to make the federal government an active partner with cities, states and the private sector to reduce lead-based paint hazards in non-federal housing;

Require HUD to carry out an aggressive, comprehensive and cost-effective strategy to reduce lead-based paint hazards in federally assisted housing;

Require that all homes sold by the federal government be lead safe.

Make concern for lead-based paint hazards an integral part of federal, state, local and private housing strategies and decisions;

Build the capacity of private industry to assess and reduce lead-based paint hazards safely and effectively;

Provide the public with accurate information about the nature of lead-based paint hazards and technical assistance on how to prevent them; and

Inform potential home buyers and residential tenants of the hazards of lead and of available remedial measures, give home buyers the opportunity to have lead assessments performed prior to purchase, and after certain conditions are met, require lessors to perform such assessments prior to lease.

#### 1. EXPAND ASSESSMENT AND REDUCTION ACTIVITY

a. Establish a federal/state/local partnership to reduce lead-based paint hazards in private housing.

General: Authorize \$500 million over two years to help state and local governments to assess and reduce lead-based paint hazards in private housing.

Eligible Activities: Funds could be used to (1) assess private housing for lead-based paint hazards; (2) control hazards on an interim basis; (3) abate hazards; (4) cover the additional costs of abating lead-based paint hazards during renovation; (5) train inspectors and contractors; (6) relocate families displaced by lead reduction activities; (7) educate the public on lead hazards and hazard reduction; (8) test children for lead poisoning; and (9) other activities as determined by HUD. No more than 10% of the funds could be used for administrative expenses.

Flexible financing/subsidy: Permit states and localities to use this assistance for a variety of financing and subsidy programs, including grants, loans, revolving loan funds, loan guarantees and interest write-downs.

Eligibility of applicants: Provide assistance to jurisdictions that are carrying out a comprehensive housing affordability strat-

egy under section 105 of the Cranston-Gonzalez National Affordable Housing Act. Funds would be awarded on a competitive basis to eligible jurisdictions.

**Income targeting:** Target assistance to owner-occupied or rental housing serving families meeting the HOME income limits. Priority would be given to applicants with the capacity to reduce hazards facing young children at high risk of lead-based paint poisoning.

**Technical assistance:** Provide training and assistance to eligible applicants in carrying out eligible activities. Set aside \$4 million over two years for this purpose.

**Matching requirement:** Require recipients to devote non-federal funds totalling at least 10 percent of the grant received to activities eligible under this section.

**Report:** Require grant recipients to report to HUD on the use made of grant funds and to state the number of homes in which lead-based paint hazards were assessed, controlled and/or abated.

b. Encourage hazard reduction in federally assisted and insured housing.

**General requirements:** Require PHAs to assess whether lead-based paint hazards exist in pre-1978, section 8 housing (as part of their annual inspection duties) and to help owners take appropriate reduction measures where hazards are found. Require owners of federally assisted housing (e.g. housing built under the section 236 and section 221(d)(3) programs) to assess whether lead-based paint hazards exist and to take appropriate reduction measures where hazards are found. Require federally supported acquisition and/or rehabilitation of pre-1978 housing to incorporate lead assessment and reduction activities, where the federal subsidy exceeds \$5,000. The Secretary would be given the discretion to phase in these requirements, with January 1, 1995 as a statutory deadline for implementing the requirements in full.

**Eligible activities.** Enable recipients to use federal housing subsidies and federally insured funds to conduct lead-based paint hazard assessment and reduction activities. Covered programs include HOME Investment Partnership, Community Development Block Grants, Section 8 Rental Assistance, HOPE for Public and Indian Housing Homeownership, HOPE for Homeownership of Multifamily and Single Family Homes, and FHA Single Family and Multifamily Housing Insurance.

**Mortgage guidelines:** Require that FHA mortgage underwriting and appraisal policies address the need to finance the assessment and reduction of lead-based paint hazards.

c. Mandate lead safety upon transfer of federally-owned housing.

**Disposition of federally-owned housing:** Prevent federal agencies from selling housing contaminated with lead-based paint hazards. Agencies would be required, prior to sale, to inspect all pre-1978 housing for lead-based paint hazards and abate such hazards.

d. Integrate lead-based paint hazards prevention into state and local housing strategies.

**Comprehensive housing affordability strategy:** Require that a jurisdiction's comprehensive housing affordability strategy (CHAS) (1) estimate the number of units posing lead-based paint hazards; (2) outlined the proposed or ongoing response; and (3) describe how lead-based paint hazard prevention and housing initiatives will be integrated.

**Data collection:** Require that housing agencies, in preparing this portion of the

CHAS, consult with health and child welfare agencies and examine existing data. Such data could include health department data on the location of poisoned children.

e. Create a taskforce on private sector financing of hazard reduction.

**Purpose:** Form a task force to make recommendations on financing assessments and reductions through private mortgages.

**Membership:** Include representatives from HUD, Farmers Home, VA, Freddie Mac, Fannie Mae, national organizations representing primary lending institutions, private mortgage insurers, and national organizations that have expertise in lead-based paint hazard response.

f. Provide for consultation on lead-based paint hazard prevention.

Require HUD to consult on an ongoing basis with EPA, the Centers for Disease Control, other federal agencies and private organizations that have expertise in lead-based paint hazard response.

## 2. BUILD A TESTING AND ABATEMENT INFRASTRUCTURE

a. Certify contractors, train workers. Require that all federally supported testing and abatement work be conducted by certified contractors and trained workers.

b. Certify laboratories. Require that all federally supported assessments be conducted using certified laboratories to ensure that environmental lead testing is dependable and readily available throughout the country.

c. Establish guidelines. Require HUD, in cooperation with other federal agencies, to issue guidelines for the conduct of risk assessments, inspections, interim controls and abatements of lead-based paint hazards.

d. Expand monitoring activity. Require HUD to establish monitoring systems to oversee closely federally supported assessment and reduction work. Contractors found in violation of federal certification requirements (or otherwise found to have negligently performed work) would be subject to disbarment from all HUD activity.

e. Establish a federal information clearinghouse.

**General:** Direct HUD, in cooperation with other federal agencies, to establish an information clearinghouse on childhood lead-based paint poisoning. The clearinghouse would gather and disseminate the most current information from research on assessment, containment and abatement activity. The clearinghouse would maintain a rapid-alert system to keep key members of the lead assessment and reduction abatement industry abreast of the latest developments in research and development.

**Funding:** Set aside \$2 million over two years to establish and operate the clearinghouse.

## 3. INFORM THE PUBLIC AND PROVIDE TECHNICAL ASSISTANCE

a. Require disclosure of lead-based paint hazards.

Federally assisted and insured housing: Before issuing tenant-based or project-based federal subsidies or approving federal mortgage insurance, require an assessment of the housing unit for lead-based paint hazards and disclosure of the results. Where hazards are found, the agency will arrange for interim containment or abatement of the hazards.

**Contract for purchase and sale of housing:** Require sellers of residential property to provide prospective purchasers with a lead hazard information pamphlet, documenta-

tion of any known lead-based paint hazards in the home, and a ten day opportunity to have the property assessed for lead hazards.

**Lease of residential property:** Require HUD to submit to Congress a schedule for implementing a regulation that would require lessors of housing to have the property assessed for lead-based paint hazards prior to rental and would make the assessment report available to prospective tenants. The regulations would go into effect upon HUD's determination that a sufficient lead hazard reduction industry exists in all regions and that this requirement would not have a deleterious effect on the availability of affordable housing for families with children.

b. Launch a nationwide public awareness campaign.

**Campaign:** Direct HUD, in cooperation with other federal agencies, to develop and undertake a major public awareness campaign on childhood lead poisoning. The campaign would inform the public about the seriousness of lead exposure, explain how to identify lead-based paint hazards and provide helpful advice about preventative and protective measures to reduce the risk of exposure.

**Targeting:** The campaign would especially target parents of young children as well as participants in the residential real estate industry. HUD would also work with large home improvement retailers to provide consumers with practical information on "do's and don'ts" associated with "self-help" renovation and remodeling.

**Hotline:** Establish a public lead hazard hotline to provide quick, easy to understand answers to basic questions about lead-based paint poisoning.

**Authorization:** Set aside \$4 million over two years to carry out this campaign.

d. Provide warning labels on appropriate home improvement tools and supplies.

Require warning labels to be placed on tools commonly used for "self-help" renovation and remodeling. The wording would be developed by the Consumer Product Safety Commission, but would at a minimum advise users to obtain information before carrying out activities that could cause lead poisoning. Information on the recommended use of such tools in order to prevent exposure to lead hazards, prepared by HUD, would be made available at the point of purchase. Research has demonstrated that the traditional methods of removing lead-based paint from chewable surfaces—scraping, sanding or burning—actually increase children's exposure to lead dust 100-fold.

## 4. FORMULATE A NATIONAL STRATEGY

a. Formulate a national strategy to assess and reduce lead hazards in housing as quickly as practicable.

**Purpose:** Require HUD to develop a strategy to enable state and local governments to assess and reduce lead-based paint hazards as soon as possible and to encourage and assist private sector efforts.

**Contents:** The strategy will identify the needed technical, regulatory, industrial and financial infrastructure. It will determine the extent to which this infrastructure exists and outline the necessary legislative and administrative actions needed to implement the strategy and estimate the cost of doing so.

## 5. EXPAND RESEARCH AND DEVELOPMENT ACTIVITIES

a. Expand HUD research on effectiveness of assessment and reduction activities.

**Other Sources:** Require HUD, in cooperation with other federal agencies, to conduct

research on assessment and reduction strategies that can reduce the risk of lead exposure from exterior soil lead and interior lead dust in carpets, furniture, forced air ducts and similar sources.

**Testing Technology:** Require HUD to conduct research, in cooperation with other federal agencies, to: 1) develop improved methods for assessing and reducing lead-based paint hazards and for measuring lead in paint film, dust and soil samples; 2) establish performance standards for various detection, hazard reduction, abatement and clean up methods; 3) evaluate the efficacy of hazard assessment and reduction activities, interim controls as a long-term strategy, and various abatement techniques.

**Public Housing Demo:** Congressionally mandated lead-based paint abatement in public housing provides a unique "laboratory" for research in the next three to five years. That invaluable information would be made useful.

**Authorizations:** Set aside \$6 million over two years to carry out this section.

b. Mandate a GAO report on liability insurance.

Require GAO to assess the availability of liability insurance for lead-related activities. GAO will analyze the insurance "precedent" for addressing other hazards (e.g. asbestos) and will provide an evaluation of the recent insurance experience in the public housing program.

#### 6. REQUIRE DETAILED REPORTS FROM HUD

**Annual Report:** Require HUD to submit an annual report to Congress that would (1) describe HUD's progress in implementing the various programmatic initiatives; (2) summarize the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between containment and abatement activities and reduction in lead exposure; (3) recommend legislative and administrative initiatives that can improve HUD performance and expand lead inspection, containment and abatement activities; (4) describe the results of research assisted under this act; and (5) estimate federal expenditures on assessment and reduction activities.

**Biennial Report:** Require HUD to submit a biennial report to Congress on HUD's progress in implementing the public information and technical assistance provisions of this act, including (1) HUD's success in making the public aware of the dangers of lead and (2) the extent to which the public is acting on this information.

• **Mr. D'AMATO.** Mr. President, I am pleased to be a cosponsor of this important legislation introduced today by my colleague from California. This bill, the Residential Lead Based Paint Hazard Reduction Act of 1992 is a significant step forward in our attempts to address the serious problem of lead paint in our Nations' housing. This bill will focus and intensify the joint efforts of the public and private sectors to combat lead poisoning.

According to the U.S. Department of Housing and Urban Development (HUD), approximately 8.8 million homes across America are known to be hazardous because of peeling lead based paint or lead dust. 3.8 million of those homes are occupied by small children. Because recent research demonstrates that even low levels of lead poisoning can damage the mental and physical

development of children, these figures underscore why health professionals are calling lead the number one environmental problem facing America's children today.

Unfortunately, our response to the crisis of lead based paint has been inadequate. Despite the fact that experts agree lead paint is the major cause of most serious lead poisoning cases, efforts to address lead paint have been frustrated by a lack of funds, inadequate knowledge of technological issues, and a failure to identify where and how to target our resources. While some progress has been made in limiting the risk of lead contamination in public housing we must create a higher level of awareness of the hazards for current or potential homeowners and tenants in homes with lead based paint. More awareness is critically needed so families do not expose themselves unknowingly to lead hazards by living in dangerous housing without taking necessary precautions and do not create more serious dangers by improperly renovating their properties.

The need for this legislation is aptly illustrated by the New York City Health and Human Services Department's recent estimate that there are 703,000 children under the age of 6 in New York City at risk of lead poisoning. New York City officials estimate that more than 300,000 children have blood lead levels at or above the health standard established by the Centers for Disease Control of the U.S. Department of Health and Human Services. Nationally, one out of six children may be at risk.

The consequences of high blood levels are indeed frightening. Absorbing lead at a young age causes neurological damage, can result in lower IQ scores, shorter attention spans, and antisocial behavior which may result in violence and delinquency. In high concentrations there can be more serious effects and even death. The threat to our children and the cost to our society of failing to act must compel us to take action to reduce the hazards of lead based paint in our Nation's housing.

This will be no easy task because of the extent of lead based paint in the U.S. housing stock. According to HUD, 57 million of the Nation's privately owned and occupied homes built before 1980—nearly three quarters of the Nation's total housing stock—contain lead based paint. Children under the age of 7 live in approximately 9.9 million of these homes and 3.8 million of the homes pose an extreme risk because they are occupied by young children and have peeling paint, excessive amounts of lead dust, or both.

So what do we do? HHS estimates that it will cost \$34 billion to address the most serious lead hazards posed by these 3.8 million homes, although this is an imposing sum, HHS has estimated that the cost of doing nothing will be

even greater because failing to protect children from high blood lead levels may cost more than \$60 billion in medical and social costs.

The enormous expense and the mandate for action require us to target our resources on the most serious problems. That is why the bill that Senator CRANSTON and I have introduced will expand Federal support for testing, containment, and abatement activities, including grants to State and local governments to address the most serious lead hazards in privately-owned housing. Our bill authorizes \$250 million for each of the next 2 years for grants to support State and local projects to reduce lead hazards in high risk housing.

Furthermore, the bill is designed to build a network of contractors, workers, architects, environmental firms, and other experts who can handle the testing and abatement work. These professionals will be trained to reduce lead hazards safely and cost-effectively. This effort will be supported by expanded research and development efforts to improve testing and abatement technologies that can then be transferred to every day practices. To make sure that the general public becomes better informed about lead hazards, the bill will launch an educational campaign about the risks of lead and how to avoid lead poisoning, including disclosure of the risks of lead paint during residential sales and lease transactions.

The problem of reducing lead hazards is a challenge of monumental proportions that we are not going to solve overnight. But it is something that we cannot simply ignore. By enacting this legislation, Congress can show the millions of American children and families that are at risk that the government is doing something to help them.

The Senate Subcommittee on Housing and Urban Affairs will be considering this legislation as we develop a comprehensive bill to reauthorize the National Affordable Housing Act. We plan to hold a hearing on this issue next week and will work with any interested parties as we seek to enact this legislation this year.

By Mr. DODD:

S. 2343. A bill to provide for demonstration projects in six States to establish or improve a system of assured minimum child support payments; to the Committee on Labor and Human Resources.

#### CHILD SUPPORT ASSURANCE ACT OF 1992

• **Mr. DODD.** Mr. President, I am introducing today the Child Support Assurance Programs Act of 1992. I previously introduced this proposal in June 1991, as a title of S. 1411, the Middle Income Tax Relief and Family Preservation Act of 1991. I am reintroducing it now as a free-standing bill to give greater visibility to these critical child sup-

port issues and to encourage considerations of this approach.

For many single-parent families, child support from the noncustodial spouse is an absolutely crucial income supplement. Unfortunately, many families go for months—sometimes years—without the money they need and are owed. In 1979, the first census study of child support showed that nearly two out of three noncustodial parents paid no child support. Only 6 out of 10 mothers eligible for support had legal child support awards, and only half of mothers with awards received the full amount to which they were entitled.

The Family Support Act of 1988 improved enforcement through wage withholding and more vigorous steps to locate absent parents and to establish paternity. Recent studies, however, indicate that one-fourth of eligible single mothers still receive no child support and that another one-fourth receive only partial payments.

Nonpayment of child support cripples single-parent families. More than half of all American children who live in poverty live in single-parent families.

This legislation would authorize demonstration grants to six States to improve the enforcement of child support payments and to guarantee a minimum level of support for all children not living with both parents.

To be eligible, the custodial parent must have a child support award, or be in the process of seeking one, or have good cause, such as family violence, not to have a child support award. Once certified, such families would receive an assured child support benefit—\$3,000 for the first child in a household, and \$1,000 for each subsequent child. If a child is receiving some child support, the assured benefit would make up the difference.

In order to participate, the State must already have a strong record in child support enforcement and must show improvement during the grant period. This creates an incentive for the State to improve its record in establishing paternity, establishing child support awards, and enforcing payment. And to deal with the underlying problem of noncustodial parents who cannot meet their child support obligations because of insufficient income, priority in job training programs would be given to such parents.

The States and the Department of Health and Human Services would conduct detailed 3 and 5 year evaluations of these demonstration programs to determine whether the approach should be extended nationally.

As opposed to welfare, an assured child support benefit encourages work and reduces dependency. It would enable many single parents with low earnings ability and low child support entitlements to escape poverty. Unlike welfare, an assured benefit would not be reduced because of earnings. An as-

sured benefit would also protect millions of children from middle-income families against the very real risk that their noncustodial parents might fail to pay child support.

This is a time of profound disarray and distress for the American family. This legislation is a modest, but important measure to strengthen families and to help them cope.●

By Mr. GARN:

S.J. Res. 268. Joint resolution designating May 1992, as "neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

#### NEUROFIBROMATOSIS AWARENESS MONTH

● Mr. GARN. Mr. President, I rise today to draw attention to a genetic disorder that very few people are aware of, but which afflicts at least 100,000 U.S. citizens, 1.5 million people worldwide, and which 1 in every 4,000 children are born with. The disorder is neurofibromatosis, or NF, and it affects all races and ethnic groups, and both sexes. It is a disorder which can lead to severe disfigurement, loss of limbs, blindness, deafness, skeletal defects, brain and spinal tumors, and learning disabilities. There is no cure.

Today I am introducing a joint resolution to designate the month of May 1992, as "Neurofibromatosis Awareness Month." I ask my colleagues to join with me in drawing national attention to this potentially disfiguring and often progressive disorder.

NF is a neurological condition which can cause tumors to grow on nerves anywhere on or in the body at any time. It affects people of all races and both sexes with varying manifestation and degree of severity. While research indicates that NF can be inherited, 50 percent of the people with NF have no family history of the disorder. Additionally, NF leads to learning disabilities. In fact, learning disabilities occur five to six times more often in NF patients than in the general population. However, recent advances in medical research bring hope to this potentially devastating disorder.

These advances in genetic research began with the discovery in 1990 of the gene which causes NF. Subsequently, researchers discovered the gene product and the gene function. More recently, researchers have been able to clone the NF1 gene. These discoveries are very exciting and put NF research ahead several years. What these discoveries also do, which is of major significance, is link the NF-causing gene to the gene which causes cancer. The NF gene product is similar to that of the cancer-causing gene in that it interacts with the cell function in a similar manner. These advances in genetic research hold much hope for a future treatment and, in time, hopefully a cure for NF, as well as many forms of cancer. Early last year, using what has been learned from the discovery of the NF gene, sci-

entists discovered a gene causing colon cancer. The implications are far reaching. The future is bright.

The Neurofibromatosis Foundation has worked extremely hard over the years to bring this disorder to the attention of the general public and to seek support for further research and further education. We can help the NF Foundation in its unwavering efforts by designating May 1992 as "Neurofibromatosis Awareness Month".

I know all of you share my deep concern for the thousands of individuals afflicted with this disorder and their families. They face a continuous struggle with not knowing what lies ahead, not knowing what course the disorder will take. I hope you will join with me in recognizing these people and also in celebrating and commemorating these remarkable breakthroughs in research and their profound significance to all of us.●

#### ADDITIONAL COSPONSORS

S. 359

At the request of Mr. BOREN, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 765

At the request of Mr. BREAU, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 873

At the request of Mr. BOREN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 873, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives.

S. 1010

At the request of Mr. INOUE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1357

At the request of Mr. BREAU, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1572

At the request of Mr. BREAU, the name of the Senator from South Caro-

lina [Mr. HOLLINGS] was added as a cosponsor of S. 1572, a bill to amend title XVIII of the Social Security Act to eliminate the requirement that extended care services be provided not later than 30 days after a period of hospitalization of not fewer than 3 consecutive days in order to be covered under part A of the Medicare Program, and to expand home health services under such program.

S. 1698

At the request of Mr. SARBANES, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1830

At the request of Mr. WOFFORD, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

S. 1921

At the request of Mr. BENTSEN, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 1921, a bill to amend the Internal Revenue Code of 1986 to allow a \$300 tax credit for children, to expand the use of individual retirement accounts, and for other purposes.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2062

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2062, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

S. 2070

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 2070, a bill to provide for the Management of Judicial Space and Facilities.

S. 2085

At the request of Mr. PRYOR, the names of the Senator from Florida [Mr. MACK] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2085, a bill entitled the Federal-State Pesticide Regulation Partnership.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from South Da-

kota [Mr. PRESSLER] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2113

At the request of Mr. SMITH, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Florida [Mr. MACK], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 2113, a bill to restore the second amendment rights of all Americans.

S. 2148

At the request of Mr. ROTH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2148, a bill to extend to the refinancing of mortgage loans certain protections of the Real Estate Settlement Procedures Act and the Truth in Lending Act.

S. 2185

At the request of Mr. KENNEDY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2185, a bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met.

S. 2195

At the request of Mr. KASTEN, his name was withdrawn as a cosponsor of S. 2195, a bill entitled the "Economic Growth Acceleration Act of 1992."

S. 2206

At the request of Mr. KASTEN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2206, a bill to amend the Internal Revenue Code of 1986 and title II of the Social Security Act to expand the social security exemption for election officials and election workers employed by State and local governments.

S. 2262

At the request of Mr. LEAHY, the name of the Senator from Louisiana [Mr. BREAU] was added as a cosponsor of S. 2262, a bill to make emergency

supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes.

S. 2327

At the request of Mr. HATFIELD, the names of the Senator from Washington [Mr. GORTON], the Senator from Washington [Mr. ADAMS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 2327, a bill to suspend certain compliance and accountability measures under the National School Lunch Act.

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the names of the Senator from Maine [Mr. MITCHELL] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 254

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 254, a joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

SENATE JOINT RESOLUTION 261

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Joint Resolution 261, a joint resolution to designate April 9, 1992, as a "Day of Filipino World War II Veterans."

SENATE JOINT RESOLUTION 267

At the request of Mr. D'AMATO, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 267, a joint resolution to designate March 17, 1992, as "Irish Brigade Day."

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE RESOLUTION 260

At the request of Mr. KASTEN, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Resolution 260, a resolution opposing the taxation of cash buildup in life insurance annuities.

SENATE RESOLUTION 266

At the request of Mr. MCCAIN, the names of the Senator from Vermont

[Mr. JEFFORDS] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 266, a resolution expressing the sense of the Senate concerning the arms cargo of the North Korean merchant ship *Dae Hung Ho*.

At the request of Mr. LOTT, his name was added as a cosponsor of Senate Resolution 266, supra.

#### SENATE RESOLUTION 270—CONCERNING THE CONFLICT IN AZERBAIJAN

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 270

Whereas the collapse of the former Soviet Union has brought about a demand by peoples throughout the country for observance of human rights and self-determination;

Whereas the collapse of the central authority of the former Soviet Union has also led to strife and armed conflict between various peoples who inhabited that country;

Whereas as many as 2,000 people have been killed in the fighting in the past four years;

Whereas for several months after April 1990, the Armenian population of Nagorno-Karabakh in particular suffered from attacks and deportations by the Soviet Army and paramilitary forces of Azerbaijan;

Whereas in recent times the governments of Azerbaijan, Armenia and the democratically elected legislature of Nagorno-Karabakh have expressed a desire to resolve the Nagorno-Karabakh crisis;

Whereas Azerbaijan has imposed a rail, fuel, transportation and information blockade on Armenia and Nagorno-Karabakh over the last four years;

Whereas a delegation of prominent international human rights advocates has on five occasions in 1991 and 1992 visited Nagorno-Karabakh and adjacent regions, and has proposed concrete steps to resolve the conflict; and

Whereas, Armenia and Azerbaijan are now members of the Conference on Security and Cooperation in Europe (CSCE), which recently sent a fact-finding mission to Baku, Yerevan and Nagorno-Karabakh and has issued a report and recommendations for stopping the bloodshed and reviving negotiations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United Nations Security Council should take up the issue of Nagorno-Karabakh to consider whether United Nations peacekeeping forces should be deployed to maintain order in the area;

(2) a cease-fire between the warring parties should come into effect, which would be enforced by mutually acceptable forces of neutral disposition;

(3) there should be free access to prisoners by foreign government representatives and independent human rights organizations;

(4) foreign assistance extended to former Soviet republics, with the exception of emergency and humanitarian aid, should be conditioned on the establishment of democratically elected governments and respect for internationally recognized human rights;

(5) foreign assistance should be provided directly to Nagorno-Karabakh, for both Armenian and Azerbaijani communities,

through the assistance of impartial international organizations;

(6) while the implementing details of the September 23, 1991 "Agreed Communiqué" negotiated at Zheleznovodsk under the auspices of the presidents of Russia and Kazakhstan are still at issue between the governments of Armenia and Azerbaijan, the human rights provisions of the communiqué should be fulfilled without delay by the parties, particularly—

(A) return of deportees to their villages and homes, with suitable protection and assistance to reestablish life in the face of problems associated with the destruction of their homes and the loss of belongings, crops, and livestock;

(B) release of all remaining hostages and persons arrested for the peaceful expression of their opinions, and the granting to all remaining prisoners the full protection of legal rights; and

(C) restoration of normal and safe operations of all modes of transport and communication, both air and ground, within and around Nagorno-Karabakh; and

(7) the Government of the United States should support and encourage the objectives of this resolution by all appropriate means.

Mr. DECONCINI. Mr. President, Members of this body have often in the last 4 years had occasion to make statements about the Armenian-Azerbaijani conflict over Nagorno-Karabakh. But the alarming recent escalation of the fighting and the just-completed report of the CSCE factfinding mission to Yerevan, Baku, and to Nagorno-Karabakh have spurred our renewed interest in the subject.

The report by the CSCE multinational delegation was based on a weeklong trip to the two Republics. Members of the delegation held discussions with leaders and opposition forces of the two governments involved, as well as with the elected representatives of the Armenians of Nagorno-Karabakh and with Azeris in the region. The trip's goal was to investigate the situation from the perspective of all sides concerned and to offer recommendations for bringing the hostilities to an end.

The gulf between these sides over the nature of the conflict is deep, with each appealing to different—and equally valid—principles of the Helsinki accords. The Azeris invoke territorial integrity; Armenians, in Yerevan and Stepanakert, call for self-determination.

Perhaps the difficulty of bridging the gap between these principles accounts for the fact that the recommendations offered in the report address only the symptoms of the crisis, not the causes. But the significance of the recommendations, which aim at stopping the bloodshed and urging the parties to the negotiating table, is not thereby diminished. I fully support the recommendations, because they represent essential first steps in finding a peaceful solution to the crisis. They include the following measures:

An immediate cease-fire, an arms embargo to the region, the provision of

humanitarian assistance by voluntary organizations to the inhabitants of Nagorno-Karabakh, the establishment of safe corridors for that purpose, the immediate exchange of all prisoners and hostages, and the return to families of their dead relatives.

The report recommends further that Russia and Kazakhstan continue their mediating efforts launched in September 1991 to promote a dialog between Armenians and Azerbaijanis, and offers CSCE mechanisms, such as those designed for peaceful settlement of disputes, as a forum and instrument for these negotiations.

Mr. President, these recommendations are fine as far as they go, but they only suggest that all interested parties discuss having observers monitor the cease-fire. I fear that unless stronger measures are taken, the bloodshed will continue and talks will never take place.

For that reason, I am submitting a resolution today that, in addition to calling for these and other measures, calls for the United Nations Security Council to consider whether United Nations peacekeeping forces should be deployed in Nagorno-Karabakh to maintain order. The tragic events of the last 4 years and the deaths of many hundreds of people offer little hope of stopping the bloodshed without outside involvement. The presence of a CSCE factfinding mission in the region has already internationalized the conflict. The introduction of UN peacekeeping forces seems to me the best way of ensuring that shooting stops long enough for the talking to begin.

#### SENATE RESOLUTION 271—RELATIVE TO THE REPRESENTATIVES OF THE GOVERNMENT OF TIBET

Mr. SIMON (for himself, Mr. HELMS, Mr. MITCHELL, Mr. PELL, Mr. MURKOWSKI, Mr. CRANSTON, Mr. MOYNIHAN, Mr. WOFFORD, Mr. KERRY, Mr. KENNEDY, and Mr. WALLOP) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 271

Whereas, in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, signed into law by President Bush on October 28, 1991, Congress declared Tibet to be an occupied country whose true representatives are the Dalai Lama and the Tibetan Government in exile;

Whereas, in this same Act, Congress declared that "it is the policy of the United States to oppose aggression and other illegal uses of force by one country against the sovereignty of another as a manner of acquiring territory, and to condemn violations of international law, including the illegal occupation of one country by another;"

Whereas, the Department of State, in its February 1992 "Country Reports on Human Rights Practices in 1991" annual report, cited "persistent abuses in Tibet," "frequent credible reports from Tibetan refugees of torture and mistreatment in penal institu-

tions in Tibet," "harsh sentences for political activities," and religious and cultural persecution of six million Tibetans;

Whereas, the people of Tibet have long been denied their right to self-determination;

Whereas, human rights abuses have been routine and harsh in occupied Tibet since the People's Republic of China invaded Tibet in 1949-1950;

Whereas, the United Nations General Assembly passed resolutions condemning China's human rights abuses in Tibet in 1959, 1961 and 1965, and whereas a Sub-Commission of independent experts of the United Nations Commission on Human Rights passed Resolution 1991/10 ("Situation in Tibet," August 23, 1991), condemning recent Chinese human rights abuses in Tibet, including executions, torture and denial of national religious and cultural identity;

Whereas, twenty-two countries, led by the European Community as the main sponsor, formally submitted a resolution ("Situation in Tibet" February 27, 1992) to the full United Nations Commission on Human Rights annual meeting in Geneva in February-March 1992;

Whereas, this resolution ("Situation in Tibet" February 27, 1992) declared its concern "at continuing reports of violations of human rights and fundamental freedoms in Tibet which threaten the distinct cultural, religious and ethnic identity of the Tibetans;" acknowledged United Nations reports on torture, summary or arbitrary executions, religious intolerance and enforced or involuntary disappearances; called "on the Government of the People's Republic of China to take measures to ensure the full observance of human rights and fundamental freedoms of the Tibetans;" and invited "the Government of the People's Republic of China to continue to respond to requests by special rapporteurs for information" and requested "the Secretary-General to submit a report to the Commission on Human Rights at its forty-ninth session on the situation in Tibet;"

Whereas, an altered text was offered implying China's sovereignty over Tibet;

Whereas, due to a procedural motion, this altered resolution was not acted on in the United Nations Commission on Human Rights;

Whereas, the United States should take a firm stand against human rights abuses wherever they occur, and should also speak out against the illegal occupation of Tibet: Now, therefore, be it

Resolved, that it is the sense of the Senate that

(1) the United States Government should support resolutions like the European Community-led resolution on the "Situation in Tibet" submitted to the United Nations Commission on Human Rights; and

(2) the United States Government should vigorously condemn Beijing's human rights abuses in occupied Tibet in all appropriate international forums; and

(3) the United States Government should raise human rights abuses in Tibet with senior officials of the People's Republic of China.

• Mr. SIMON. Mr. President, I am submitting a Sense of the Senate resolution today on the recent U.N. Human Rights Commission meeting in Geneva, and the administration's mishandling of the resolution condemning Chinese human rights violations in Tibet, with my distinguished colleagues Senator

HELMS, Senator PELL, Senator MITCHELL, Senator MURKOWSKI, Senator CRANSTON, Senator MOYNIHAN, Senator WOFFORD, Senator KERRY, Senator KENNEDY, and Senator WALLOP. I am pleased to have such broad support on this, and I hope President Bush will heed the sentiment expressed here.

The European Community nations and others were all set to condemn China's abysmal human rights practices in Tibet—and not mention the question of Tibetan independence or self-determination—when at the eleventh hour the United States delegation expressed interest in an alternative resolution that was not as tough on China and that implied China's sovereignty over Tibet. This altered resolution, weak as it was, was strongly opposed by China, and her delegates managed to prevent the issue from even being considered. Twenty-two other nations were cited for human rights abuses, but China once again managed to escape censure.

Our resolution is simple. We ask only three things. Number one, when resolutions like the one submitted by the European Community and other nations are offered in the U.N. Human Rights Commission, the United States ought to stand up and lend its full support. Number two, the United States should vigorously condemn Beijing's human rights abuses in occupied Tibet in all appropriate international forums. And number three, the United States should raise human rights abuses in Tibet with senior Chinese officials. That's all this resolution asks for, and I do not think it is asking too much.

Mr. President, Ambassador Jeanne Kirkpatrick had an op-ed in the Washington Post 2 days ago. It was mostly about Cuba, but toward the end of her article she describes how we failed to stand up for Tibet at the UN meeting and condemn Beijing's harsh policies. She notes that while Tibet is not yet on the international agenda, "step by step, as with Cuba, the world slowly, but inexorably takes note of Tibet's suffering." I urge my colleagues to take note, and to join with me as cosponsors of this resolution. •

#### AMENDMENTS SUBMITTED

#### TAX RELIEF AND ECONOMIC GROWTH ACT

#### PRYOR (AND OTHERS) AMENDMENT NO. 1708

Mr. PRYOR (for himself, Mr. COHEN, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. EXON, Mr. KERREY, Mr. METZENBAUM, Mr. WELLSTONE, and Mr. BRYAN) proposed an amendment to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, as follows:

On page 866, before line 15, insert the following new part:

#### PART VIII—DRUG COST CONTAINMENT

##### SEC. 2291. SHORT TITLE.

This part may be cited as the "Prescription Drug Cost Containment Act of 1992".

##### SEC. 2292. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—  
(1) although prescription drugs represent one of the most frequently used medical care interventions in treating common acute and chronic diseases, many Americans, especially elderly and other vulnerable populations, are unable to afford their medications because of excessive and persistent prescription drug price inflation;

(2) between 1980 and 1990, prescription drug price inflation was triple the rate of general inflation, and in the first half of 1991, prescription drug price inflation increased even faster, exceeding 3½ times the rate of general inflation on an annualized basis;

(3) because of the limited availability of private or public prescription drug coverage for the elderly, prescription drugs represent the highest out-of-pocket medical care cost for 3 of 4 elderly patients, surpassed only by costs of long-term care services;

(4) prescription drug manufacturers continue to make enormous profits on the backs of the elderly, poor, and other vulnerable populations that are unable to afford their medications;

(5) the Federal Government and American taxpayer provide substantial subsidies to the pharmaceutical industry in the form of tax incentives, tax write-offs, and grants for non-research activities;

(6) for example, in 1987 alone, the pharmaceutical industry received a section 936 tax credit of more than \$1,400,000,000, and such credit is estimated to have yielded over \$2,000,000,000 in tax breaks in 1990 to such industry; and

(7) in addition, there is a need to determine whether Federal subsidies are used in the most efficient manner by the pharmaceutical industry to develop drugs which represent true therapeutic advances over those products already on the market.

(b) PURPOSES.—The purposes of this Act are—

(1) to insure that elderly patients and all Americans have access to reasonably-priced pharmaceutical products;

(2) to establish a medicare outpatient prescription drug benefit demonstration project and trust fund;

(3) to provide for the establishment of the Prescription Drug Policy Review Commission and a study of the impact of a pharmaceutical price review board on containing price inflation on prescription pharmaceutical products in the United States;

(4) to provide for a study on how Federal tax credits and subsidies and market exclusivity given to the pharmaceutical industry can be used to modify an individual manufacturer's pricing behavior and research priorities; and

(5) to provide the Federal Government with information on drug prices in other industrialized nations.

##### SEC. 2293. REDUCTION IN POSSESSIONS TAX CREDIT FOR EXCESSIVE PHARMACEUTICAL INFLATION.

(A) IN GENERAL.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end the following new subsection:

“(1) REDUCTION FOR EXCESSIVE PHARMACEUTICAL INFLATION.—

“(1) IN GENERAL.—In the case of any manufacturer of single source drugs or innovator

multiple source drugs, the amount by which the credit under this section for the taxable year (determined without regard to this subsection) exceeds the manufacturer's wage base for such taxable year shall be reduced by the product of—

"(A) the amount of such excess, multiplied by

"(B) the sum of the reduction percentages for each single source drug or innovator multiple source drug of the manufacturer for such taxable year.

"(2) MANUFACTURER'S WAGE BASE.—For purposes of this subsection—

"(A) IN GENERAL.—The manufacturer's wage base for any taxable year is equal to the total amount of wages paid during such taxable year by the manufacturer to eligible employees in Puerto Rico with respect to the manufacture of single source drugs and innovator multiple source drugs.

"(B) ELIGIBLE EMPLOYEES.—The term 'eligible employee' means any employee of the manufacturer (as defined in section 3121(d)) who is a bona fide resident of Puerto Rico and subject to tax by Puerto Rico on income from sources within and without Puerto Rico during the entire taxable year.

"(C) WAGES.—The term 'wages' has the meaning given such term by section 3121(a).

"(3) REDUCTION PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The reduction percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) the sales percentage for such drug for such taxable year, by

"(ii) the price increase percentage for such drug for such taxable year.

"(B) SALES PERCENTAGE.—The sales percentage for any drug for any taxable year is the percentage determined by dividing—

"(i) the total sales of such drug by the manufacturer for such taxable year, by

"(ii) the total sales of all single source drugs and innovator multiple source drugs by the manufacturer for such taxable year.

"(C) PRICE INCREASE PERCENTAGE.—The price increase percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) 20, times

"(ii) the excess (if any) of—

"(I) the percentage increase in the average manufacturer's price for such drug for the taxable year over such average price for the base taxable year, over

"(II) the percentage increase in the Consumer Price Index (as defined in section 1(g)(5)) for the taxable year over the base taxable year.

"(D) TOTAL SALES.—

"(i) DOMESTIC SALES ONLY.—Total sales shall only include sales for use or consumption in the United States.

"(ii) SALES TO RELATED PARTIES NOT INCLUDED.—Total sales shall not include sales to any related party (as defined in section 267(b)).

"(E) AVERAGE MANUFACTURER'S PRICE.—The term 'average manufacturer's price' for any taxable year means the average price paid to the manufacturer by wholesalers or direct buyers and purchasers for each single source drug or innovator multiple source drug sold to the various classes of purchasers.

"(F) BASE TAXABLE YEAR.—The base taxable year for any single source drug or innovator multiple source drug is the later of—

"(i) the last taxable year ending in 1991, or

"(ii) the first taxable year beginning after the date on which the marketing of such drug begins.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—

"(i) IN GENERAL.—The term 'manufacturer' means any person which is engaged in—

"(I) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(II) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(ii) CONTROLLED GROUPS.—For purposes of clause (i)—

"(I) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(II) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subclause shall be based on principles similar to the principles which apply in the case of subclause (I).

"(B) SINGLE SOURCE DRUG.—The term 'single source drug' means a drug or biological which is produced or distributed under an original new drug application or product licensing application, including a drug product or biological marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(C) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug (within the meaning of section 1927(k)(7)(A)(i) of the Social Security Act) that was originally marketed under an original new drug application or a product licensing application approved by the Food and Drug Administration.

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) DOSAGE TREATMENT.—Except as provided by the Secretary, each dosage form and strength of a single source drug or innovator multiple source drug shall be treated as a separate drug.

"(B) ROUNDING OF PERCENTAGES.—Any percentage shall be rounded to the nearest hundredth of a percent."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

#### SEC. 2294. MEDICARE OUTPATIENT PRESCRIPTION DRUG PROGRAM DEMONSTRATION PROJECT.

(a) IN GENERAL.—Subject to the availability of appropriations as authorized in subsection (f), and not later than October 1, 1992, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall establish no less than 15 demonstration projects in counties (or other geographic areas) located in different States in rural and urban areas. Each of the counties (or other geographic areas) designated shall

have a significant proportion (as determined by the Secretary) of individuals eligible for medicare benefits under title XVIII of the Social Security Act.

(b) PURPOSE.—(1) The purpose of demonstration projects conducted under this section is to assess—

(A) the impact on cost, quality of care, and access to prescription drugs of developing (in each geographic area) a medicare outpatient prescription drug benefit using various forms of benefit design and reimbursement policies, and

(B) the impact on cost and quality of care of extending coverage of outpatient prescription drugs to medicare beneficiaries served by community health centers.

(2) The partial purpose of at least 5 of the demonstration projects is—

(A) to assess the impact on quality of care and reduction in other health care service expenditures of reimbursing pharmacists separately for providing ongoing drug utilization management (including medication regimen review) to insure that prescriptions are appropriate, medically necessary, and unlikely to result in adverse medical results;

(B) to reimburse pharmacists (or other persons authorized to dispense drugs under State law) under such projects based on marketplace pricing; and

(C) to use an electronic, on-line claims capture and adjudication component in such projects to process medicare prescription drug claims.

(c) PROJECT REQUIREMENTS.—(1) A project conducted under this section shall provide for coverage of all drugs and biologicals approved by the Federal Food and Drug Administration and all medically accepted indications of these drugs as indicated in the 3 national compendia of drug use standards: the USP-DI, AHFS-DI, and AMA-DE.

(2) In each geographic area in which a project is conducted, a Drug Use Review Board (hereinafter referred to as the "DUR Board") shall be established which shall consist of a sufficient number of actively practicing physicians and pharmacists from the geographic area who shall possess knowledge in pharmacology and therapeutics, especially as it relates to drug use with respect to the elderly. In lieu of establishing a DUR Board in the area, functions of the DUR Board may be performed by the State medicare DUR Board established under section 1927(g) of the Social Security Act.

(3) The DUR Board established under this section shall be responsible for recommending the design and development of the medicare prescription drug benefit within the geographic area. It shall establish a program of prospective and retrospective drug use review for medicare beneficiaries entitled to drug benefits under the project. The Board shall also develop appropriate educational interventions to ensure that drugs are prescribed and dispensed in accordance with standards that are described in the 3 national medical compendia and the peer-reviewed medical literature.

(4) In assessing the total costs of the medicare prescription drug benefit, the DUR Board should consider various levels of discounts, rebates (or other appropriate incentives), and inflation containment mechanisms that could be negotiated with, or required from, pharmaceutical manufacturers as a condition of participating in the program, such as the discounts and rebates provided to the medicare program under section 1927 of the Social Security Act.

(d) DURATION OF PROJECTS.—The demonstration projects established under this

section shall be conducted for a period of 5 fiscal years beginning October 1, 1992, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(e) **EVALUATION AND REPORT OF SECRETARY.**—The Secretary shall fund an independent evaluation of the demonstration projects and shall report to the Congress on the results of such evaluation no later than 5 years from the date of enactment of this Act. The report of the Secretary shall review the impact on cost and quality of care of the various forms of benefit design and reimbursement policies to provide prescription drugs to medicare beneficiaries and make recommendations on the applicability of the demonstration projects to other medicare beneficiaries.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, \$200,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the demonstration projects established under this section.

**SEC. 2295. PRESCRIPTION DRUG POLICY REVIEW COMMISSION.**

(a) **ESTABLISHMENT.**—Subject to the availability of appropriations as authorized in subsection (f), the Director of the Congressional Office of Technology Assessment (in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of a Prescription Drug Policy Review Commission (in this section referred to as the "Commission"), to be composed of individuals with expertise in the provision and financing of inpatient and outpatient drugs and biologicals. The provisions of title 5, United States Code, governing appointments in the competitive service shall not apply to the appointment of members of the Commission.

(b) **COMPOSITION.**—(1) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than October 1, 1992, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(2) The membership of the Commission shall include—

(A) recognized experts in the fields of health care economics and quality assurance, medicine, pharmacology, pharmacy, and prescription drug reimbursement,

(B) other health care professionals, and

(C) at least one individual who is an advocate of medicare and Medicaid recipients.

(c) **ANNUAL REPORTS.**—The Commission shall submit to the Congress and the Health Care Cost Containment Commission an annual report (by not later than January 1 of each year beginning with 1994) which shall include information and recommendations regarding national and international drug policy issues, such as—

(1) trends and changes in prices for prescription and non-prescription drugs (on the retail and manufacturer level) in the inpatient and outpatient setting in the United States;

(2) trends and changes in prices and mechanisms for cost containment for prescription drugs in other industrialized nations, such as Canada, Japan, and countries of the European Economic Community, and the applicability of such mechanisms to the United States;

(3) the scope of coverage, reimbursement, and financing under Federal health care programs, including titles XVIII and XIX of the Social Security Act, the Department of Veterans Affairs, the Department of Defense, and Public Health Service clinics;

(4) the availability and affordability of prescription drugs for various population groups in the United States, and the accessibility and affordability of public and private insurance programs for prescription drugs for such population groups;

(5) changes in the level and nature of use of prescription drugs by recipients of benefits under titles XVIII and XIX of the Social Security Act, taking into account the impact of such changes on aggregate expenditures under these titles;

(6) suggestions to make prescription drugs more affordable and cost-effective for third party insurers, including State-based pharmaceutical assistance and general assistance programs;

(7) evaluation of technologies available for efficient third party prescription drug program administration, such as electronic claims management and payment technologies;

(8) methods of providing reimbursement under Federal health care programs to providers for drug products and cognitive services;

(9) evaluation of the use and efficiency of all Federal tax credits and subsidies given to the pharmaceutical industry for various purposes, including the tax credit allowed under section 936 of the Internal Revenue Code of 1986, and recommendations on developing incentive-based tax credits for research and development; and

(10) evaluation of the impact on total health care expenditures in other industrialized nations of switching prescription drugs to non-prescription status, and the role of various health professionals in the distribution of such non-prescription drugs.

(d) **SPECIAL REPORTS.**—The Commission shall submit to the Congress and the Health Care Cost Containment Commission special reports as requested by the Congress and the Commission.

(e) **ADMINISTRATIVE PROVISIONS.**—Section 1845(c)(1) of the Social Security Act (42 U.S.C. 1395w-1(c)(1)) shall apply to the Commission in the same manner as such section applies to the Physician Payment Review Commission.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated equally from the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund, an amount determined under paragraph (2) for each fiscal year, to carry out the purposes of this section.

(2) **AMOUNT DETERMINED.**—

(A) **IN GENERAL.**—For purposes of paragraph (1), the amount determined under this paragraph is—

(i) for fiscal year 1993, \$3,000,000, and

(ii) for each fiscal year beginning after fiscal year 1993, the dollar amount for the previous fiscal year, increased by the cost-of-living adjustment.

(B) **COST-OF-LIVING ADJUSTMENT.**—For purposes of subparagraph (A), the cost-of-living adjustment for any fiscal year is the percentage (if any) by which—

(i) the CPI for the previous fiscal year, exceeds

(ii) the CPI for fiscal year 1992.

(C) **CPI.**—For purposes of subparagraph (B), the CPI for any fiscal year is the average of the Consumer Price Index for prescription

drugs as of the close of the 12-month period ending on June 30 of the previous fiscal year.

**SEC. 2296. REPORT ON FEDERAL SUBSIDIES AND INCENTIVES PROVIDED TO THE PHARMACEUTICAL INDUSTRY.**

(a) **REPORT.**—By not later than July 1, 1993, the Secretary of Health and Human Services, acting in consultation with the Secretary of the Treasury, shall submit a report to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the United States House of Representatives, and the Special Committee on Aging of the United States Senate, on Federal subsidies and incentives provided to the pharmaceutical industry. Such report shall include—

(1) a determination of the total cost over the 5 immediately preceding fiscal years to Federal taxpayers of all Federal subsidies provided to the pharmaceutical industry (including tax incentives, subsidies, grants, and any other financial support);

(2) a description of—

(A) the purposes for which such Federal subsidies are used by the pharmaceutical industry;

(B) the Federal role in researching and developing patented pharmaceutical products and the extent to which the Federal Government should co-license certain drugs and biologicals;

(C) the extent to which pharmaceutical industry marketing research costs are incorporated into allowable Federal tax credits;

(D) comparable financial incentives, subsidies, and tax credits provided to the pharmaceutical industry by other industrialized nations and the use of such incentives, subsidies, and credits by such industry;

(E) the relationship between the total Federal financial support provided to the pharmaceutical industry by the United States and other industrialized nations and the prices paid by the citizens of such respective nations for prescription drugs; and

(F) the extent to which tax credits provided by the Federal Government subsidize total worldwide pharmaceutical industry research and development; and

(3) recommendations on how Federal tax credits to pharmaceutical manufacturers and marketing exclusivity for drug products may be related to—

(A) an individual manufacturer's pricing behavior in the marketplace; and

(B) the relative therapeutic value of new pharmaceutical products researched, developed, and marketed in the United States.

**SEC. 2297. MANUFACTURER INTERNATIONAL DRUG PRICE REPORTING REQUIREMENTS.**

Subparagraph (A) of section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by adding at the end thereof the following new clause:

"(iii) not later than 30 days after the end of each calendar year, the average price that the manufacturer sold each covered outpatient drug in such calendar year in the following countries: Canada, Australia, and the countries of the European Economic Community."

**SEC. 2298. USE OF REVENUES.**

(a) **EXTENSION OF SELF-EMPLOYED HEALTH INSURANCE DEDUCTION.**—Section 162(l)(6), as amended by section 2201(b), is amended by striking "December 31, 1994" and inserting "May 31, 1995".

(b) DEFICIT REDUCTION.—It is the sense of the Senate that, after the application of the amendment made by subsection (a), any remaining revenues resulting from the amendment made by section 2293(a) shall be applied to reduce the Federal budget deficit.

#### DOLE (AND OTHERS) AMENDMENT NO. 1709

Mr. PACKWOOD (for Mr. DOLE, for himself, Mr. PACKWOOD, Mr. DOMENICI, Mr. CHAFEE, Mr. DANFORTH, Mr. HATCH, Mr. SYMMS, and Mr. HELMS) proposed an amendment to the bill H.R. 4210; supra; as follows:

Strike all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Recovery Act of 1992".

#### TITLE I—ECONOMIC RECOVERY INCENTIVES

##### SECTION 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Enhanced Economic Recovery Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

#### Subtitle A—Economic Recovery Initiatives PART I—PROVISIONS RELATING TO CAPITAL GAINS

##### SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

##### "SEC. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

	The applicable percentage is:
"In the case of:	
1-year gain .....	15
2-year gain .....	30
3-year gain .....	45

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992 AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992 and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-through entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be

treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m)) without regard to paragraph (3) thereof."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION DISALLOWANCE.—Except with respect to gains realized on the sale, exchange, or other disposition of a direct or indirect interest in real estate or in a closely-held business, the deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting "reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting " (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

**"SEC. 221. CROSS REFERENCES.**

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting "and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

**SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.**

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1968, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) MAXIMUM RATE ON RECAPTURE AMOUNT.—Section 1 (relating to tax imposed) is amended by adding at the end the following new section:

"(1) MAXIMUM RATE OF TAX IN SECTION 1250 RECAPTURE AMOUNTS.—If a taxpayer has any amount treated as ordinary income under section 1250 for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount treated as ordinary income under section 1250, or

"(B) the amount of taxable income taxed at a rate below 28 percent, plus

"(2) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1)."

(c) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of section 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (1) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraphs (1) and by redesignating paragraph (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disposi-

tions made on or after February 1, 1992, in taxable years ending on or after such date.

## PART II—PROVISIONS RELATING TO PASSIVE LOSSES AND DEPRECIATION

### SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) TREATMENT OF REAL ESTATE DEVELOPMENT ACTIVITIES.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

“(7) REAL ESTATE DEVELOPMENT ACTIVITY.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity.”

(b) DEFINITION.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

“(13) REAL ESTATE DEVELOPMENT ACTIVITY.—

“(A) IN GENERAL.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively participates and that consist of the performance of real estate development services and the rental of any qualified real property.

“(B) REAL ESTATE DEVELOPMENT SERVICES.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

“(C) QUALIFIED REAL PROPERTY.—For purposes of this paragraph, the term ‘qualified real property’ means any real property that was constructed or substantially renovated in an activity of the taxpayer at a time when the taxpayer materially participated in such activity.”

(c) EFFECTIVE DATE.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

### SEC. 122. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

“(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

“(1) ADDITIONAL ALLOWANCE.—Except as provided in paragraph (2), in the case of any qualified equipment—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

“(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction (without regard to paragraph (2)) before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) MAXIMUM FIRST-YEAR DEDUCTION.—Of the aggregate deduction allowable under paragraph (1)—

“(A) 50 percent shall be allowed for the taxable year in which the property is placed in service, and

“(B) 50 percent shall be allowed for the succeeding taxable year.

“(3) QUALIFIED EQUIPMENT.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified equipment’ means property to which this section applies—

“(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

“(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

“(iii) which is—

“(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

“(iv) which is placed in service by the taxpayer before July 1, 1993.

“(B) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified equipment’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

“(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

“(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

“(I) is originally placed in service on or after February 1, 1992, by a person, and

“(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease-back referred to in subclause (II).

“(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

“(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).”

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

“(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed.”

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting “or (iii)” after “(ii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

### SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).”

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

## PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

### SEC. 131. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

“(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of section 514(c)(9)(B), except as otherwise provided by regulations, the following additional rules apply—

“(i) IN GENERAL.—

“(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

“(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

“(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a ‘qualifying sale out of foreclosure by a financial institution’ exists where—

“(I) a qualified organization acquires real property from a person (a ‘financial institution’) described in sections 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured (‘foreclosure’), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

“(II) the amount of the financing provided by the financial institution does not exceed

the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure.

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to debt-financed acquisitions or real estate made on or after February 1, 1992.

#### SEC. 132. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) **MODIFICATION TO ANTI-ABUSE RULES.**—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) **PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.**—

"(I) **DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.**—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1.

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) **EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.**—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) through the term of the partnership own at least a 25 percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) **PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.**—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

#### PART IV—PROVISIONS AFFECTING HOMEBUYERS

##### SEC. 141. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) **IN GENERAL.**—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

##### "SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) **ALLOWANCE OF CREDIT.**—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) **LIMITATIONS.**—

"(1) **MAXIMUM CREDIT.**—The credit allowed under subsection (a) shall not exceed \$5,000.

"(2) **LIMITATION TO ONE RESIDENCE.**—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) **MARRIED INDIVIDUALS FILING JOINTLY.**—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) **OTHER TAXPAYERS.**—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of \$5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) **APPLICATION WITH OTHER CREDITS.**—

"(A) **GENERAL RULE.**—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(B) **CARRY FORWARD OF UNUSED CREDITS.**—Any credit that is not allowed for the taxable year solely by reason of subparagraph (A) shall be carried forward to the succeeding taxable year and allowed as a credit for that taxable year. However, the credit shall not be carried forward more than 5 taxable years after the taxable year in which the residence is purchased.

"(6) **YEAR FOR WHICH CREDIT ALLOWED.**—Fifty percent of the credit allowed by subsection (a) shall be allowed in the taxable year in which the residence is purchased and the remaining fifty percent of the credit shall be allowed in the succeeding taxable year.

"(c) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

"(1) **PURCHASE PRICE.**—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) **FIRST-TIME HOMEBUYER.**—

"(A) **IN GENERAL.**—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a

residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) **CERTAIN INDIVIDUALS.**—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) **SPECIAL RULES FOR CERTAIN ACQUISITIONS.**—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) **RECAPTURE FOR CERTAIN DISPOSITIONS.**—

"(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) **ACQUISITION OF NEW RESIDENCE.**—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) **DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.**—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) **PROPERTY TO WHICH SECTION APPLIES.**—

"(1) **IN GENERAL.**—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) **CLERICAL AMENDMENT.**—The table of sections for subpart A of part IV of chapter

1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

#### SEC. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (6) are met."

(b) DEFINITIONS.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(D) —

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if—

"(i) DOLLAR LIMIT.—The amount of the distribution does not exceed the excess (if any) of—

"(I) \$10,000, over

"(II) the sum of the distributions to which paragraph (2)(D) previously applied with respect to the individual who is the owner of the individual retirement plan.

"(ii) USE OF DISTRIBUTION.—The distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—The distribution is not made from an individual retirement plan which—

"(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

#### Subtitle B—Repeal of Luxury Excise Tax

##### SECTION \_\_\_\_ REPEAL OF LUXURY EXCISE TAX.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by striking subchapter A and by redesignating subchapters B and C as subchapters A and B, respectively.

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "subchapter A or C of chapter 31" and inserting "section 4051".

(2) Subsection (a) of section 4221 is amended by striking the last sentence.

(3) Subsection (c) of section 4221 is amended by striking "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)" and inserting "section 4053(a)(6)".

(4) Paragraph (1) of section 4221(d) is amended by striking "taxes imposed by subchapter A or C of chapter 31" and inserting "the tax imposed by section 4051".

(5) Subsection (d) of section 4222 is amended by striking "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)" and inserting "sections 4053(a)(6)".

(6) Section 4293 is amended by striking "subchapter A of chapter 31".

(7) The table of subchapters for chapter 31 is amended to read as follows:

"SUBCHAPTER A. Special fuels.

"SUBCHAPTER B. Heavy trucks and trailers."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

#### TITLE II—REVENUE PROVISIONS

##### Subtitle A—Extension of Expiring Provisions

##### SEC. 201. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

##### SEC. 202. EXTENSION OF THE PATENT AND TRADEMARK OFFICE USER FEE SURCHARGE THROUGH 1997.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1996";

(2) in subsection (b)(2) by striking "1995" and inserting "1996"; and

(3) in subsection (c)—

(A) by striking "1995" the first place it appears and inserting "1996"; and

(B) by adding at the end the following new paragraph:

"(6) \$107,000,000 in fiscal year 1996."

##### SEC. 203. EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8343a(f)(3) of title 5, United States

Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8420a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

#### Subtitle B—Other Provisions

##### SEC. 211. ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.

Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking out "that are brought before November 15, 1992".

##### SEC. 212. REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.

(a) REVISION.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

##### SEC. 213. APPLICATION OF MEDICARE PART B LIMITS TO FEHB ENROLLEE AGE 65 OR OLDER.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—Subsection 8904(b) of title 5, United States Code, is amended:

(1) by amending paragraph (1) to read as follows:

"(b)(1)(A) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits under this chapter, in the case of any individual enrolled in the plan who is not an employee and who is age 65 or older, to the extent that—

"(i) a benefit claim involves a charge by a health care provider for a type of service or medical item which is covered for purposes of benefit payments under both this chapter and title XVIII of the Social Security Act (42 U.S.C. 1395-1395ccc) relating to medicare hospital and supplementary medical insurance, and

"(ii) benefits otherwise payable under such provisions of law in the case of such individual would exceed applicable limitations on hospital and physician charges established for medicare purposes under sections 1886 and 1848 of the Social Security Act (42 U.S.C. 1395ww and 1395w-4), respectively.

"(B)(i) For purposes of this subsection, hospitals, physicians, and other suppliers of medical and health services who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1842(h) and 1866 of the Social Security Act (42 U.S.C. 1395u(h) and 1395cc), whereby the participating provider accepts medicare benefits in full payment of charges for covered items and services after applicable patient copayments under sections 1813, 1833 and 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e, 1395f, and 1395cc(a)(2)) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for any item or service described under subparagraph (A) which is furnished to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to such item or service under provisions of title XVIII of the Social Security Act.

"(ii) Physicians and other health care suppliers who are nonparticipating physicians, as defined by section 1842(i)(2) of the Social Security Act (42 U.S.C. 1395u(i)(2)) for purposes of services furnished to medicare beneficiaries, may not bill in excess of the limit-

ing charge prescribed under section 1848(g) of the Social Security Act (42 U.S.C. 1395w-4(g)) when providing services described under subparagraph (A) to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to those services under provisions of title XVIII of the Social Security Act.

"(iii) The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital, physician, or other supplier of medical services is found to knowingly and willfully violate this subsection and the Secretary shall invoke appropriate sanctions in accordance with subsections 1128A(a)(2), 1848(g)(8), and 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a-7a(a)(2), 1395w-4(g)(8), and 1395cc(b)(2)) and applicable regulations.";

(2) by amending paragraph (3)(B) to read as follows:

"(B) For purposes of this paragraph, the term 'medicare program information' includes—

"(i) the limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1866 of the Social Security Act (42 U.S.C. 1395cc); and

"(ii) the annual fee schedule amounts for services of participating physicians and 'limiting charge' information for nonparticipating physicians established for medicare purposes under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) and the identity of physicians and suppliers who have in force participation agreements with the Secretary consistent with subsection 1842(h) of the Social Security Act (42 U.S.C. 1395u(h))."

(b) MEDICARE AGREEMENTS WITH INSTITUTIONAL PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (P);

(2) by striking out the period at the end of subparagraph (Q) and inserting ", and";

(3) by inserting after subparagraph (Q) the following new paragraph:

"(R) to accept as payment in full the amounts that would be payable under this part (including the amounts of any coinsurance and deductibles required of individuals entitled to have payment made on their behalf) for an item or service which the provider normally furnishes to patients (or others furnish under arrangement with the provider) and which is furnished to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this title and chapter 89 of title 5, United States Code."

(c) MEDICARE PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h)(1) of the Social Security Act (42 U.S.C. 1395u(h)(1)) is amended, after the second sentence, by inserting the following new sentence: "Such agreement shall provide, for any year beginning with 1993, that the physician or supplier will accept as payment in full the amounts that would be payable under this part (plus the amounts of any coinsurance or deductibles required of individuals on whose behalf payments are made under this title) for an item or service furnished during such year to an individual who has attained age

65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this part and chapter 89 of title 5, United States Code."

(d) MEDICARE ACTUAL CHARGE LIMITATION FOR NONPARTICIPATING PHYSICIANS.—Section 1848(g) of the Social Security Act (42 U.S.C. 1395w-4(g)) is amended by adding at the end thereof the following paragraph:

"(8) LIMITATION OF ACTUAL CHARGES FOR ENROLLEES OF THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—(A) A nonparticipating physician shall not impose an actual charge in excess of the limiting charge defined in paragraph (2) for items and services furnished after 1992 in any case involving—

"(i) an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) or section 8903 or section 8903a of title 5, United States Code; and

"(ii) an item or service of a type that is covered for benefits under both this part and chapter 89 of title 5, United States Code.

"(B) If a person knowingly and willfully bills for physicians' services in violation of subparagraph (A), the Secretary shall apply sanctions against the person in accordance with section 1842(j)(2)."

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to health care provider charges for items and services furnished to individuals enrolled in plans under chapter 89 of title 5, United States Code, in contract years beginning after December 31, 1992.

(2) The amendment made by subsection (b) applies to agreements for periods after 1991.

#### SEC. 214. REVISIONS IN CERTAIN AUTHORITIES RELATING TO THE NATIONAL DEFENSE STOCKPILE.

(a) REVISIONS OF LIMITATION ON DISPOSAL AUTHORITY.—(1) Section 3301(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1583) is repealed.

(2) Notwithstanding any other provision of law, the National Defense Stockpile Manager shall dispose of materials in the National Defense Stockpile in fiscal year 1993 and each succeeding fiscal year so that the amount received from the disposal of such materials in each such fiscal year is \$1.1 billion. Amounts received pursuant to this paragraph shall be covered into the Treasury.

(b) REPEAL OF ACQUISITION REQUIREMENT.—Section 3302 of such Act is repealed.

#### KASSEBAUM AMENDMENTS NOS. 1710 AND 1711

(Ordered to lie on the table.)

Mrs. KASSEBAUM submitted two amendments intended to be proposed by her to the bill H.R. 4210; supra, as follows:

##### AMENDMENT No. 1710

At the end of the bill, add the following new section, and renumber accordingly:

#### SECTION 1. PRINCIPAL RESIDENCE INCLUDES ADJOINING FARMLAND.

(a) IN GENERAL.—Section 121(b) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—If—

"(A) a parcel of farmland on which is located a residence with respect to which the taxpayer meets the holding and use requirements of subsection (a) is sold with such residence,

"(B) the taxpayer meets the holding requirements of subsection (a) with respect to such farmland, and

"(C) the taxpayer meets requirements similar to the requirements of section 2032A(b)(1)(C) with respect to such farmland, notwithstanding paragraph (5), the taxpayer shall be treated as meeting the use requirements of subsection (a) with respect to so much of such parcel as does not exceed 160 acres."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

##### AMENDMENT No. 1711

At the end of the bill, add the following new section, and renumber accordingly:

#### SECTION 1. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) IN GENERAL.—Paragraph (7) of section 2032A(c) of the Internal Revenue Code of 1986 (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood."

"(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) of such Code is amended by striking out the last sentence.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in section 6151(a) of the Technical and Miscellaneous Revenue Act of 1988.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this act.

#### AUTHORITY FOR COMMITTEES TO MEET

##### SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet on Wednesday, March 11, 1992, at 9:30 a.m., in open session, to receive testimony on ways in which the United States can strengthen its support of manufacturing technology programs being undertaken by the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 11, 1992, at 9:30 a.m., to hold a hearing on the Department of Defense inventory: Why does the Pentagon buy so much?

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMUNICATIONS SUBCOMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 11, 1992, at 9:30 a.m., on radio oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 11, at 2 p.m., to hold a hearing on the situation in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Wednesday, March 11, 1992, at 10 a.m. to conduct an oversight hearing on the Resolution Trust Corporation to address minority and women contracting, western storm, and asset disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADDITIONAL STATEMENTS

##### JUMP-START AMERICA

• Mr. METZENBAUM. Mr. President, I rise today to praise the efforts of Jump-Start America [JSA], a program initiated by one of my constituents and friend, Dr. William Lippy of Warren, OH. The program began on January 14, 1992, and is designed to get Americans back to work and keep them working by encouraging employers to offer cash incentives to their employees if they purchase vehicles manufactured in the United States by the Fourth of July.

Mr. President, this is a program that has the potential to provide a tremendous boost for our national economy. It consists of over 350 communities and businesses working together by encour-

aging other companies to offer cash incentives to their employees if they purchase an automobile or truck manufactured in the United States before July 4. Companies have joined from over 25 States and the list continues to grow every day as more and more companies find out about JSA.

The program is simple. JSA has set some minimum standard guidelines and there is no fee to become a part of their federation. An employee of a JSA participating company could receive \$200 for purchasing a used American car or truck, \$400 for purchasing a new American car or truck, and \$600 for purchasing an American car or truck built in his or her area. Furthermore, JSA has established a \$200 bonus for an employee who scraps a car without a catalytic converter.

It is important to note that JSA is not part of any "Buy America Movement" nor is it part of any "Buy American Only" program. JSA is only suggesting that if consumers are in the market to purchase a new or used vehicle, they should consider buying an American made car or truck. This Senator and the founders of JSA believe that American made cars are competitive with any other cars in the world.

It is no surprise that JSA has become the focus of both the national and international media because it has a positive message that reaches across the country. JSA has received coverage by the following major television programs and newspapers: ABC World News Tonight, NBC Nightly News, CBS This Morning, Good Morning America, the Wall Street Journal, the New York Times, Time magazine, Newsweek, USA Today, the Los Angeles Times, the Washington Post, the Chicago Tribune, the Cleveland Plain Dealer, and the Youngstown Vindicator to name a few. This coverage is due in part to the originator of the idea, Dr. William Lippy.

I personally know Dr. Lippy, as a constituent and as a friend. He is regarded as one of the world's leading reconstructive hearing specialists and has always been a leader in his community, giving of his time and financial assistance to a variety of charities and philanthropic endeavors. As a leader in his community and because of his professional stature, the citizens within the Greater Warren, OH area have responded to his challenge of selling an additional 20,000 automobiles by July 4.

The growth in sales of new cars and trucks in the Mahoning Valley, where Dr. Lippy lives, attests to the impact that JSA is having in the local community. Sales of new American cars and trucks in February 1992, have increased over 38 percent compared to February 1991. This is the first double digit increase in Mahoning Valley since 1989. While across the rest of the Nation, sales have risen only 7 percent, I am confident that we will witness signifi-

cant increases in the sale of American made cars and trucks as JSA becomes a part of more and more communities. It is certainly conceivable that we may be able to apply a similar program to some of other major industries in the future.

Mr. President, this is one terrific story and a perfect example of what happens when a community gets behind an idea and works hard together as a community. JSA has predicted that this program will have a ripple effect in our national economy and give us the boost to climb out one of the worst recessions we have seen in decades. Given that one out of every seven working Americans is either directly or indirectly employed by the automobile industry, their prediction is not far off the mark.

I congratulate Dr. Lippy on the early success of "Jump-Start America" and truly hope that companies across the Nation will become members of the JSA Federation. This program is fitting tribute to the ingenuity of one American who has taken a grassroots approach to helping our economy rebound. •

#### THE MCDONNELL DOUGLAS-TAIWAN AEROSPACE DEAL

• Mr. GORTON. Mr. President, recently, I attended a hearing by the Joint Economic Committee to address the proposed sale of 40 percent of McDonnell Douglas' commercial aircraft business to Taiwanese business interests. I believe that there must be fair competition in the commercial aircraft industry and the United States in general.

Retaining jobs and expanding economic opportunity is vital to the economy of Washington State, and to the Nation. This proposed venture, which appears would be subsidized by the Government of Taiwan, will create an unfair advantage for the McDonnell Douglas/Taiwan consortium.

It is essential that we continue to expand economic opportunities and not hinder competitiveness by creating an unfair advantage by allowing foreign government subsidies to bolster development and sales.

The proposed joint venture would have serious ramifications for the Boeing Co. and for America's balance of trade. This is a very serious issue and one I have taken all the way to President Bush.

Mr. President, I ask to place the testimony of Mr. Daniel Hartley, president of the Seattle Professional Engineering Employees Association, and Larry Clarkson, vice president of the Boeing Co. that they delivered to the Joint Economic Committee last week in the RECORD at this point.

The testimony follows:

STATEMENT OF MR. DANIEL B. HARTLEY

My name is Daniel B. (Dan) Hartley. I am an engineer . . . who has worked in the

trenches of engineering for over 35 years. I speak from the viewpoint of the working engineer, one who has also been chosen by my peers for my position as President of the 46-year old Seattle Professional Engineering Employees Association (SPEEA). Although I work full time at Boeing, my views are my own and may or may not agree with any Boeing testimony. I am not trying to sell any particular product to the government. I am not requesting money. I'm not asking for some special favors. To me it seems like everyone who comes here is always saying how to cut the pie. We engineers want to tell how to make the pie bigger.

SPEEA is the bargaining agent, the union, for 29,000 Boeing engineers, primarily in Seattle and the Puget Sound Area, but also in several other (but not all) Boeing locations around the country. We are far and away the largest concentration of engineers in the world, and also one of the largest independent local unions. We are the people who design the Boeing airplanes. Currently about 80% of us work on commercial airplanes, with the remainder working on government programs, space and military mostly. I wrestle with the problems of aerospace engineers daily.

I address my union's opposition to the McDonnell Douglas sale of the Douglas commercial aircraft manufacturing operation to a Taiwanese consortium that will eventually be foreign controlled. The impact on the aerospace industry in our country will be irreversible, given our lack of any positive industrial policy.

The issue is technology transfer that will quickly result in major job loss for many areas in our country.

To allow the sale of Douglas to Taiwan is to encourage export of cutting-edge technology. The ability of America's remaining aerospace companies to sell in the world market will be dramatically reduced.

What are the stakes? Typically, American aerospace exports perhaps 20 to 30 billion yearly. Boeing has been building airplanes for 75 years; Boeing currently has about 60% of the world market for large commercial jet airliners. Boeing is the largest manufacturing exporter in the world, the largest exporter in our country and the second largest exporter in the world.

It is not generally known that Boeing subcontracts about 60 to 65% of the manufacturing of our airplane, but we're effectively responsible for all of the design. Boeing's 37,000 commercial airplane manufacturing workers represent 35% of the airplane, so our engineering supports perhaps 100,000 direct aerospace manufacturing jobs, the majority actually being outside of Boeing. These 100,000 plus our 20,000 would equate to 360,000 indirect jobs using the economists' 3 to 1 factor, for a total of half-a-million jobs driven by SPEEA's people, alone . . . and we are just a portion of aerospace. I recollect that Boeing alone, typically has about 4,000 subcontractors for each of our 4 major airplane types, in about every state. My 5,000 compatriots at Douglas are good engineers and proportionally productive.

To understand my opposition of this proposed wholesale job export, I state the following well known truths lest we don't communicate:

1. To create our accustomed level of wealth we must convert natural resources into useful manufactured products. The know-how to do this is technology.

2. The engineer is the person who knows how to do this, who has this technology. Without competent engineering, designs that

are worthwhile to manufacture cannot be created.

3. The heart of America's long-term strength, both economic and military, ultimately resides in the ability of our engineers (yours, yours and mine, ours) to turn this technology into manufactured products.

4. If our country continues to encourage helter-skelter technology export without apparent regard for replacement with new technology, our children and grandchildren will revert to third-world status as hunters and gatherers.

To me and my fellow engineers these realities pose a dilemma:

Our society doesn't seem to have any cultural or religious taboos to retard the advancement of this technology. We want the materialistic benefits of technology. We say we want the jobs that technology creates.

Paradoxically, our country seems to be on an almost deliberate course to deny you and me the benefits of our technology. Is this lack of leadership or, possibly, is this the deliberate path of our leadership?

The proposed sale of the Douglas commercial airplane manufacturing and design functions to a consortium financed and partially owned by Taiwan is just the latest milestone in this headlong plunge.

My average engineer is 39 years old and has perhaps 14 or 15 years of engineering experience, with 10 of those years at Boeing. This means we have some new-hires and some with 30 to 40 years of experience. To be competitive in the current global market we need this mix. Few who are not in technology understand that this typical engineer committed to an engineering career perhaps 18 or 20 years ago. The experience of the engineer is far and away the pacing factor in evaluating the disastrous effects of injudicious technology transfer. Aerospace technology is this experience. It is not a factory or accounting procedure, or organization chart or even governmental ideology. If you want to start a competitive aerospace industry it is a lot quicker and a lot less expensive to buy in to an existing technology base than to try to develop one from scratch, ask Airbus. Likewise, loss of this experience base costs our country a lot more than some short term profit and loss exercise or election tally may indicate. This knowledge and skill in the heads of our country's engineers takes a long time to acquire but can be lost in a flash.

Boeing exported 5 different airplane types in 1991. The first flight of these types occurred an average of 20 years. Engineering design started 23 years ago, on average, with design of the 707 (the last two have been built and will be delivered shortly) starting 40 years. Our largest airplane has some 8 million parts. Commercial airplanes represent our country's highest level of technology because there are so many parts from such a wide range of technologies and because the standards of safety are so demanding. Each type may represent 5 years of design investigation, then 5 years of detailed design, manufacturing and testing, before being approved for passengers. This takes a lot of agonizing the working together and as you know such a massive job is hard to coordinate. It's all too easy to lose a bit in translation at each step. It is also a heck of a leadership job that few can hack. To break up a team would send commercial costs to the realm of that all too common in many of our governmental programs, we'd be priced out of the world market. Our airplanes are the best example of technology in production. Our next design will be better, and if we

can keep our team together the one following that will be better yet.

This problem of teamwork also extends to our sub-contractors. Often, personal relationships of trust and confidence develop that span many years and several companies. (Military programs usually preclude these practices, hence progress is exorbitantly slow and expensive.) These expediences are necessary to make the American aerospace machine work. There is absolutely no differentiation between the technical nature of military and commercial work. The only difference is how the management structure works, not the way the technology functions.

Our airplanes are expensive . . . they deserve to be. When I started flying (I'm a 37-year aviator, too), the automobile was safer than the airplane. Automobile safety has improved considerably. I hear that airplane travel is now 1100 times safer than the auto . . . and, the price of air travel has gone down dramatically all the while. Wages, in general, are among the highest because the skills required are high (of course, we all know our union engineers are underpaid.). Wouldn't you agree that we American aerospace engineers have done a pretty fair job? Technology doesn't cost. It pays! Why else would this new Asian version of Airbus be touted? (The same discipline was demonstrated by our weaponry; performance in the Gulf War said a lot about the quality of our aerospace technology.)

I think it is fair to ask who really owns this technology that McDonnell is trying to sell. Most of our American engineers represent a large public investment in education and experience. Back in the days before technology bashing was in vogue, the GI Bill started hundreds of thousands of my fellow engineers on the road to careers in technology. Many others were helped by loan guarantees and other government incentives and society's encouragement. Technology wasn't some dirty word. Early education praised it. The maturity of experience of the many engineers pumped into the economy by WWII and the GI Bill was a major, if not the main ingredient, in our current technology advantage, in the moon landings and other glitzy aerospace accomplishments. But our WWII folks are all but gone and the Korean War bulge is rapidly thinning. You and I should view Douglas and Boeing and every other high-tech company as a national economic asset. After all, you and I paid for it.

The following broad question is being asked: What are the likely consequences of the proposed equity sale of Douglas from the standpoint of our national interest?

I answer this question from my knothole as the working engineer in technology. To understand my answers, one must understand some nuts and bolts fundamentals of aerospace manufacturing. The capital required to put several million parts together is tremendous. Consequently, the industry's manufacturing is spread over a broad base. The "brand name" manufacturers only make a small portion of each airplane. In Boeing's case, for the next generation airplanes, it is about a third. However, we Boeing engineers are responsible for the design of virtually all of it. How can we exist? . . . sub-contractors. There is no industry that is so dependent on the sub-contractor base. These sub-contractors may be producing for Boeing alone or for Douglas alone, or both. They may be working on a military project or a commercial plane. We may also have several subs building the same part and in some cases we may have several subs building different parts for the same use. For example, we may

use different pumps from several manufacturers in a hydraulic system.

These subs (vendors) are often run by the originating entrepreneurs who are quite efficient and innovative. We design such that they can respond to change much more rapidly than large organizations. Even though many subs are run on a financial shoestring that would alarm the high finance community, their work is excellent. Remember, these are the people who create most of the new jobs and handle an untold amount of the shop skill training in America. They're good people and we engineers like 'em. On the selfish side, they also help the Boeings maintain a much more stable work force. I'm not a macroeconomist but I would suspect that the two major reasons that have forced the 3 billion a year subsidy of Airbus are the superiority of our technology and subcontractor base and recognition that our American engineers are 3 billion a year better than their engineers.

The proposed sale will inflict a serious wound on the American aerospace industry in such ways as:

1. Loss of high value-added jobs in prime manufacturing and particularly at high-tech subcontractors who craft two-thirds of the airplane. We must realize this base is already being devastated by the head-long plunge in military programs.

2. As American sub-contractors bite the dust it will raise costs for the remaining players. This increase in prices will undoubtedly decrease business.

3. Considerable worsening of balance of payments.

4. Overall decrease in the confidence of investors in the viability of our aerospace industry. It will force a turning to foreign sources for capital for future projects. Again, more technology transfer will follow. Simply stated, it will make inevitable future foreign technology acquisitions cheaper.

5. Forcing Boeing to respond by increasing foreign participation much more . . . accelerating the American aerospace downfall. If Boeing cut prices, it would insure that neither Boeing nor this Asian equivalent of Airbus will make money. The effect of this will be to force Taiwan to pump in more billions to protect the money already there. It is obvious this will not occur without transfer of ownership of more equity and technology. Boeing would have no money to continue to launch new, highly competitive products. This new "Asian Airbus" should overjoy European Airbus.

6. Perhaps the most important impact (in view of our 100-year policy of a de facto industrial policy ranging from benign neglect, increasingly to moderate antagonism) will be to discourage our more responsible young people from entering cutting edge technical careers, of which aerospace is the most highly visible. I must have bright new people coming into our profession . . . (to pay my social security if nothing else).

If I am to believe that McDonnell Douglas and Taiwan Aerospace people are saying, then this sale will result in the loss of about 10,000 high-tech jobs; this translates to 1/4 million new aerospace jobs for Taiwan. I'm only an engineer who has vast experience on a team that has competed successfully despite our self-imposed obstacles. Taiwan's and our trade experts both want the deal. I'm not a trade expert, but it occurs to me that their trade experts have accumulated 70 billion of foreign exchange while ours have lost hundreds of billions . . . whose experts would you bet on?

The positive:

I cannot speak with any expertise on the positive effects. They appear to center on some ethereal philosophical reasons that don't pass my engineering muster. Several who support the sale have talked to me and sent me material. For the life of me I cannot follow their logic but I have no reason to believe they are not honorable. I just can't put my heart into most of what I read as being positive. Engineers just need stronger arguments that the ones I hear.

It could result in some short term employment for engineers at Douglas.

I read that the supporters of the proposed sale say multinationalizing a corporation promotes peace and prosperity. Somehow America's current aerospace led is supposed to be economically destabilizing. Maybe this is why so much military technology must be transferred. I have read where multinationals are stabilizing because operations can easily be hidden from governmental interference by any one country. This secrecy promotes business profitability which elevates monetary control above our nationalistic political processes. This is supposed to be good for me, or somebody.

I cannot speak with factual information but the scuttlebutt in the industry is that McDonnell family members hold very high percentages of company stock. If so, a 2 billion reduction in debt should give these folks a fair near term windfall.

There is one indirect positive effect of the proposed sale. If something like this is the straw that broke the camel's back, if it is the act that makes us wake up and force our so-called leadership off their dead behinds, then it would be positive. Unfortunately, our innocents will be forced to bleed because of the job loss . . . but this is strictly opinion.

Now, let's look at what I have recently been told are the major points of the memorandum of understanding between McDonnell Douglas and Taiwan Aerospace Company (TAC) as told to Douglas employees. I had not seen this before my December written testimony. I suspect it is generally true. The words are theirs; highlighting is mine:

Douglas separates commercial and government segments to form the new company.

The new company headquarters will be in Long Beach, California with two primary operations, U.S. and Asian.

Taiwan is offered up to 40% ownership in Douglas commercial business for \$2 billion.

Taiwan is to produce the MD-12 wing and fuselage in a new production facility at Taichung, Taiwan.

Next steps: Conduct due diligence and negotiate definitive agreement; Objective-conclude definitive agreement by Jan. 31, 1992; and Requisite government approvals.

McDonnell Douglas states their strategic alliance benefits are:

Financial Strength:

Cash from MD-80 and MD-11 for US "green field", risk sharing;

Make MD-12 Development cash neutral for McDonnell Douglas;

Substantial portion of equity investment available to reduce McDonnell Douglas debt; and

New Company will start debt-free. Low Cost World Class Production Capability:

Major structural assemblies; Feeds MD-12 "green field" final assembly facility; and

Market Presence.

Pacific Rim largest growth market;

Passenger traffic to double in next 7 years; and

Will be roughly equal (93%) to U.S. domestic market by 2010 (currently 26%).

Market penetration: 38 to 40% of market in which we compete (MD-80/90 and MD-11);

Now participate in 44% of the total commercial market; and

With MD-12 and 100 passenger airplane Douglas will compete in 75% of total market by end of 1992.

TAIWAN AEROSPACE CORPORATION OVERVIEW

Private company with strong government support 29% government/71% private.

Previous aerospace experience:

Principals in Taiwan have many years of U.S. aerospace experience.

Dr. David Huang, Chairman & CEO, 22 years of U.S. Space program with Rockwell, PhD from MIT;

Dr. Denny Ko, President, Engineering degree from Cal Tech & Berkeley; and

Dr. Sing Chu, Engineering VP, Engineering PhD from MIT; worked at NASA Ames Research Center.

Benefits to ROC:

Development of commercial aviation industry in Taiwan;

Helps to transition Taiwan's labor intensive industrial base to a technology/capital intensive base;

Allows Taiwan to leapfrog industry entry barriers;

Avoids the 20 years of start-up effort normally required; and

Instant world-wide name recognition of Douglas.

#### ISSUES

Technology transfer: Commercial aircraft technology not unique to U.S., i.e., Airbus Fokker and Boeing alliance with Japanese on 777.

Military/defense connection: Complete separation of commercial and government. No involvement with government programs.

Job Loss: Without strategic alliance, Douglas will remain a niche player in commercial aviation and there would be a steady erosion of jobs at Douglas. This alliance will strengthen McDonnell and enable growth.

Douglas Employee concerns:

Pay and benefits will remain essentially the same;

All existing union contracts will be honored; and

We have the best employees in the industry and want the company to continue to grow and prosper for our customers, employees and stockholders.

TAIWAN AEROSPACE CORPORATION (TAC) BACKGROUND

TAC formed as a focal point for Taiwan's efforts in international aerospace activity. Its basic mission is the furtherance of the development of aeronautics and space industries and relevant parts and components industries with an aim towards stimulating parallel development of associated industries to effect a full scale upgrade of Taiwan's domestic technology level.

Formation announced in July 1990. Official opening June 1991 Initial funding/capitalization of \$400 million.

Capital contributors:

	Percent
Executive Yuan Develop. Fund .....	24
China Steel .....	10
Bank of Communications .....	5
Finance companies .....	4
Consortium of 15 manufacturers .....	57

Chairman: Dr. David Huang. Background MIT Ph.D., Rocketdyne Program Manager, Acting President, Chung Shan Institute of Science and Technology (AIDC).

Proposed factor site: 148 acres adjacent to Taichung Harbor, for fabrication sub-assembly.

bly work. Initially processes (chem milling, anodizing, heat treat) would be undertaken at AIDC (nearby military aircraft factory).

Basic Taiwan Data Republic of China provided to Douglas:

Area, 13,900 square miles.  
Population, 20 million.  
Language, Mandarin Chinese (English required in High School and College).  
Gross Domestic production (Billion \$) Foreign Trade (Billion \$).

	Export	Import
1989	135	66.2
1990	160	67.2

Defense % of GNP, 5%.  
Defense % of Budget, 35.5%.  
Current foreign reserves, 78 billion (greater than Japan).

Current public debt, less than 400 million.  
Labor escalation, 10-11% last 5 years, 8-10%/year forecast.

Inflation rate has been 4-6% per year and projected to stay same through 1997.

GNP growth rate was 5.2% in 1990; projections for balance of this decade is 6% per year.

Transportation: Near seaport and major military airport.

Workforce: Commerce/service, 35%; manufacturing, 33%; agriculture/fishing, 17%.

Unemployment negligible (1.4%), if anything, workforce shortage 3-5% average annual turnover nationally; Union situation not a significant problem to date.

Taiwan National Priority: Taiwan believes it requires a new industry to sustain economic growth which must be based on high value-added industries.

A three year search for other alternatives has brought Taiwan to aerospace.

Training and Education: 116 universities and colleges total enrollment, 535,000; engineering/science, 180,000; annual graduates, 35,000.

13 government sponsored training programs train 20,000 each year. 1990 government passed "Aeronautics and Space Industries Development Program." Plan is to train 5,000 to 7,000 technicians annually.

Douglas is telling their customers that the proposed MD-12 will be the newest, highest-tech airplane on the horizon (and my fellow engineers at Douglas can design good planes and have for 71 years). McDonnell executives then say there is no technology transfer. If true, I am hard pressed to see that this "deal" is the straightforward conventional investment as touted by Douglas executives in earlier testimony. What is the message this sends, not only to my very competent fellow aerospace engineers at Douglas but to all of us in American aerospace technology?

Am I concerned because I think the deal would cause more competition? No, it is in my interest to have the strong, healthy American aerospace industry that this deal doesn't promote. I want a competitive Douglas.

I oppose the sale. It is a one-way street. A prompt Congressional injunction on several grounds is in order. Even McDonnell acknowledges, above, that there are governmental skids to grease to approve the deal. I am not a lawyer but it seems that they wouldn't be concerned about this if they didn't think technology transfer was occurring. Likewise, why are they scurrying around lining up political heavyweights if the deal is so pure and obviously straightforward?

I don't have the calm, genteel graces so evident before committees, so I'll tell you

what an engineer sees. The problem at McDonnell Douglas is bad management, almost any aerospace engineer will acknowledge that. How are the interests of America going to be served by exporting the technology and the manufacturing base, to compete with American business, while keeping McDonnell Douglas' management so they can sell to the U.S. government, their only remaining customer when the commercial business evaporates? This looks to me like a double loss for our side.

This brings me around to the inevitable question that every one seems afraid to ask. Those of us on the firing lines of technology need to have answers if we are to continue to try to compete: Do we need to investigate developing a positive U.S. industrial policy?

What does our current policy look like to an engineer?

1. Antiquated anti-trust laws. The whole driver in antitrust was to prevent monopolies' tendency toward economic blackmail. In the global marketplace we are encouraging it.

2. Tort laws, as they affect technology, stifle innovation and reward non-value-added litigants at the expense of technology. I'd be interested to know how disputes would avoid Taiwanese courts that constantly flaunt U.S. law? Within the month Piper Aircraft and its 1000 jobs, was sold to a foreign group for moving out of the U.S. It wasn't a question of market: they had a 1300-plane backlog. The reason was to get away from U.S. liability laws. These are a thousand jobs that could have been sub-contracting for us.

3. Lack of investment policy reform, Glass-Steagall, etc. We've got to quit rewarding the short-sighted and start encouraging the long-term thinkers. I don't know the best answer to this: I'm an engineer . . . but this hurts technology.

4. Indifference toward rampant foreign industrial espionage occurring in our targeted technologies. Again, I'm an engineer, not a lawyer. The legal community is quick to tout "justice" in tort defense but can't come up with some fairness here.

5. Inequities in patent, copyright and intellectual property laws. Anyone who has ever been to Taiwan knows this.

6. Regressive environmental laws that seem to cause more of the very pollution they supposedly reduce. They surely now allow the foreigners to sell us back (in the form of products made in their polluting, OSHA-less factories) the pollution we were trying to reduce. There's no way that I will tolerate an employer harming health or safety but we've gotten ridiculous. If my readings are correct, then Taiwan's main interest in the environment is in exporting pollution processing machinery to America. I will concede that our aerospace is considerably cleaner than most of Taiwan's industries.

7. Apathy in NASA. As an engineer it bothers me to see that only perhaps 6% of the NASA budget supports research in aeronautics that supports tens of billions in American sales and hundreds of thousands of American jobs . . . plus enough taxes to support all their other programs. To add insult to injury the research NASA or that Boeing does in a NASA facility is made available to our foreign competitors under "freedom of information." This may be partly why Douglas hurts now. What kind of a message is this sending to my fellow engineers?

8. FAA's impediments to our aeronautical innovation. To a working aerospace engineer all I see is an FAA that trips all over itself to see that Russian and French airplanes are certified in the U.S. so they can be sold here

but is the epitome of slow deliberation when it comes to common sense certification rules that will promote American foreign sales. From my vantage a good many rules that the FAA lays on our manufacturers are not driven by law but are extraneous promotion of political agendas of bureaucracy run amok.

9. Lack of appreciation for research and development. The heavyweights in the government will talk up basic research but get bored when it comes to the bill-paying industrial phase of the development. We research, create, they manufacture.

10. Failure to appreciate the value of education in preparing a skilled, competitive workforce. I'm no education expert but daily I see the lessening skills of our entry-level workers. I just have to have bright young engineers to replace my highly skilled retirees. It may not be apparent but my engineers are often forced into a less competitive design because our designs must be safe and also buildable by an inadequately trained workforce. There is scant interest up high in opportunity for continuing education to allow updating technical skills of our current workforce. Is it ironic that these Taiwan executives were trained in the U.S. using American taxpayer-subsidized schools and employment while we working, tax-paying engineers are effectively locked out of the education establishment? We engineers are essentially denied post-graduate education. However, 40% of the graduate students in science and technology in our subsidized universities are foreign, mostly on non-reimbursable foreign stipend.

11. Arrogant indifference to the realities of global competition. Arguably, we have about 1 1/4 million engineers and the number is shrinking. We are not going to keep competing with a shrinking in both percentage and actual numbers of working engineers in the economy. That is about one engineer for each 100 jobs. I'm no expert, but it strikes me as strange that I cannot find any working engineers on any of these so-called competitiveness committees and "technology" committees. Do we have bad breath or what?

12. Arcane rules to address labor/management problems as they relate to competition. Let me mention an area where I am a world-class expert. There is a great prejudice against unions in the annals of government (and industry). It is beyond many of these people's comprehension to think that an engineer could be in a union . . . the deepest of degradations. I see instance after instance where this attitude defeats well-meaning efforts toward effective use of the engineering force we still have.

13. Tax structure that is tilted against technology. Again, I'm not a tax expert but it would seem wise to run some of the tax discussions past us working engineers to see disincentives not obvious to the experts. Even income tax rules hurt us.

14. Our historical tradition of massive military program changes without regard to the technological impact. If you were one of the engineers recently laid-off from one of our military projects, what would you be thinking seeing our government courting engineers in Russia and offering your tax money to provide them alternate employment? I have even seen plans to eliminate many of our career engineers from active military service: my, how shortsighted. We are quick to recognize that the engineer is the key to military technology for the other country but not in ours. We worry about their end-run when a dozen good aerospace engineers could make a producible conventional mis-

sile much akin to those that we used so effectively in the Gulf War. Nuclear warheads could be produced by half-a-dozen of our disgruntled engineers using modern manufacturing machinery. We better wake up!

In conclusion, everyone . . . but everyone who has done a recent study says the problem isn't so much in America's design process as in our appreciation of manufacturing technology, the bill-payer of our designers. This deal is a double whammy because it exports our manufacturing base . . . and exports our design technology, too. In the end, it is an issue of jobs and the economy. How anyone could suggest this deal makes good economic sense for America is beyond me. That people in high places do, is plenty of reason to take the mystery out of why the world is eating our lunch on automobiles, consumer electronics, optics and so many other products that require attention to the creative input of engineering and other technology.

I accept that one may argue with the individual numbers and percentages and dollar figures I suggest. I solicit difference with my conclusions, an open discussion, the light of day does not worry me. If due deliberations show my generalities do not support a particular conclusion, then I will stand corrected. Feel free to copy, distribute and quote what is written here. Open discussion promotes better understandings. I would be happy to expand on any of these brief replies at your pleasure.

#### STATEMENT OF LARRY CLARKSON

Good morning, I am Larry Clarkson. Boeing Vice President for Planning and International Development. I wish to commend the Committee for holding these important hearings and for inviting Boeing to participate.

Let me state at the outset that Boeing does not oppose investment in McDonnell Douglas Corporation [MDC] by the Taiwan Aerospace Company [TAC] provided that the new structure assures there can be no subsidies by the Taiwan government, and that there are provisions to require disclosure sufficient to monitor and verify compliance with this requirement.

Our testimony today is based on the belief that, if their proposed arrangement is consummated under terms currently reported in the media, it will create another subsidized airplane manufacturer, and Asian Airbus—leaving Boeing as the only remaining major civil aircraft manufacturer bound by traditional open-market, profit and loss constraints.

Published reports indicate McDonnell Douglas Corporation [MDC] proposes to sell 40% of its commercial airplane operation to Taiwan Aerospace Company [TAC] for about \$2.0 billion (USD). Another 9% will be sold to other Asian countries, with MDC retaining just over 50% ownership and, we would note, no room left to raise additional funds through the sale of equity, without relinquishing that control. MDC indicates \$1.5 billion of the TAC investment will be used to pay down current debt.

Launch of the MD-12 trijet will target a market niche between Boeing's new 777 twinjet (which delivers beginning in 1995) and the 747-400 (4-jet, which is being delivered today). Though smaller, the Airbus A330 (twinjet) and A340 (4-jet) will also be competitors which deliver beginning in 1993. The MD-12 is currently scheduled to deliver beginning in 1997.

The current global market slowdown for commercial aircraft is likely to continue for

several years. According to Wall Street analysts, total annual demand for new aircraft deliveries (based on projected air traffic passenger growth and replacement of aging aircraft) is not likely to exceed 600 airplanes per year for the next decade. Boeing generally agrees with this assessment. Current world production capacity is already about 1,000 airplanes per year, and climbing, with the end of both the Gulf War and the Cold War, and the significant reduction of military budgets virtually world-wide, the aerospace industry is trying wherever possible to shift its emphasis from military to commercial aircraft. By decade end this trend is only going to add to the world's excess capacity. It is in just this market environment that we would expect a subsidized competitor to employ sales incentives (which undermine realistic pricing), to secure increased market share at the expense of its American competitors.

Yet for Boeing and the American commercial airplane industry, an open global marketplace, free of such trade distortions, is crucial for continued success. Such foreign subsidies and other market-inhibiting policies not only introduce unwanted economic and trade distortions, but make us less competitive in the process, even when we've become more efficient. Clearly this is a Boeing perspective, driven by our worldwide market outlook. And, while it would be naive to expect trade protections (including those in our own country) to all disappear overnight. I believe it's worthwhile exploring the impacts on our industry when trade is artificially distorted.

The mechanisms by which subsidies and other protectionist measures artificially alter market activity are relatively well understood. Subsidized ventures tend to lack the fiscal imperative which leads to sound commercial decisions, instead often introducing products to win market position, rather than earn a profit. They can remain in money-losing markets when it is, economically, poor business. They can inhibit the entry of a non-subsidized competitor into a market, or worse, split a market so that no one can earn a profit. Subsidy can also take the form of government support in the sale process. A manufacturer which can rely on government backed financing at favorable rates is in a much stronger position than a company which must rely solely upon private sector resources. This is particularly true in a recession (such as the current one) when the typical cash-shy customer seeks any assistance available and may be forced to make purchasing decisions based on financial incentives.

For the commercial airplane manufacturing industry, subsidies and other government interference in the marketplace also have long lasting effects. The decision to buy a particular airplane model typically commits the buyer to a relationship with the manufacturer for 10 or 20 years. And, given its large investment in inventory and training, coupled with the value of commonality, the airplane is likely to give that manufacturer an edge when more or different airplanes are needed. Thus, even a small sale can be perpetuated into a long-term fleet decision, a legacy of the original decision.

Commercial airplane programs require the manufacturer to make an enormous front-end investment. And they recover that investment and make a profit, if any, only after a long period. American manufacturers have traditionally been required to finance such multi-billion dollar airplane programs out of internally generated profits, or from

available commercial market sources. Furthermore, a family of such airplane programs is today essential to succeed in the marketplace. So, it is in this context, that direct government subsidies in airplane development and financing may be seen to exert such powerful distortions, not only in our industry, but upon our nation's trade balance as well.

MDC indicate they intend to use about \$1.5 billion of the "initial Taiwanese downpayment" for debt service with the remainder to be devoted to the MD-12 program. And, we are told that, effective January 1, 1992, MDC has separated their commercial aircraft business from all military programs in response to concerns over military security and technology transfer.

The media report MDC estimates of total required investment for the MD-12 program in the \$4.0 to \$5.4 billion USD range, while industry analysts estimate that requirement in the \$7.0 to \$10.0 billion range. While accurate estimates cannot be pinned down until the MD-12X is fully defined, we are nevertheless able to make "educated estimates" which correlate well with that of the analysts. A major aircraft program of this type requires significant up-front investments in training, facilities (U.S. and overseas), tooling equipment, inventory buildup and, of course, design and development. Total program cumulative negative cash-flow, for a typical aircraft program of this size, would likely be on the order of \$10.0 billion or more around the fifth year after go-ahead. And this assumes a typically successful program. Were market conditions to deteriorate, those numbers could easily increase. Obviously large cash supports or subsidies will then be required. And where will they come from? And, under what terms and conditions?

At this point, Taiwan Aerospace is a newly-formed Taiwanese corporation "waiting for a role". The extent of government investment in, and control over, TAC is unclear at this time, since only a small portion of total expected funding is yet in place or committed. Original announcements of the proposed arrangement indicated TAC comprised 29% government ownership and 71% private-sector ownership. However, industry analysts have since pointed out that the private sector is "holding back", and they now estimate eventual government investment in the 60% to 85% range.

We do know, however, that the Taiwan government has announced its intent to establish a commercial aerospace industry where none now exists, and to support it through funding, tax benefits, and other forms of subsidy. Further, Taiwanese foreign currency reserves, much of it from trade with the USA, were recently reported as \$82.0 billion [USD]. This provides them with adequate currency resources to "bankroll" a new commercial aerospace industry should it become necessary.

In August of 1990, the Taiwan government announced its CASID (China Aeronautics & Space Industries Development) Program. The objectives of the program are to further the development of aeronautics and space industries, and relevant parts and components industries, to stimulate parallel development of associated industries, to upgrade the domestic technology levels, and to integrate "with national defense industries in order to establish an integral aeronautics and space industry in the Republic of China".

Thus the aviation industry has been identified and targeted as one of the key industries by the Taiwanese government to: One, upgrade the overall Taiwanese industrial base;

Two, build a high quality work force for high value added products; and Three conform to the trend of globalization.

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In pursuing these objectives Taiwan will emphasize international cooperation through government support. One of its explicit development strategies is "to make effective use of reciprocal amenity terms and conditions in connection with industrial cooperation arrangements in encouraging prominent foreign aeronautics and space companies and parts manufacturers to make a presence in the ROC through participation in cooperative projects, so as to facilitate the transfer of advanced technologies into this country, as well as expand the export of the products". So, in this context, it is quite clear that technology transfer is a goal of their program.

As we look further at the Taiwanese plan of implementation, we can identify at least five components which might prove potentially troublesome:

First, the Ministry of National Defense "will be authorized to use its operation funds, technical personnel, technology and equipment without jeopardizing principal missions, to assist government-owned and private-owned enterprises in the development and research of the manufacturing techniques of aeronautics and space products and their associated equipment so as to help those enterprises to upgrade the level of their technical capability in the field of aerospace industries" (Section IV.4 (1)).

Second, the Ministry of Economic Affairs has committed to "work out a plan for establishing an aeronautics and space industrial park at an appropriate place to provide industrial land and necessary facilities required for the development of aeronautics and space industries" (Section IV.6).

Third, investment in aeronautics and space industries "may be designated by the Government as important technology-based enterprises, and thus eligible for tax benefits" (Section IV.9 (1)).

Fourth, "the Development fund of the Executive Yuan, the Bank of Communications and/or other designated financial institutions may formulate a budget for participation in, or providing low interest credit facilities to such investment plans" (Section IV.9 (2)).

Finally, Taiwan has incentivized the airlines to request offsets of up to 20 percent of the value of a procurement through the offer of preferential financing linked to the level of offset.

The Plan outlines a wide range of means whereby their new commercial aerospace industry could be supported—going well beyond what some might define as a traditional subsidy. But international and domestic law in this area is quite clear. A subsidy can take many forms, ranging from government guarantees that allow funds to be allocated to firms and industries that are not "creditworthy" or "equityworthy", to government-directed credit allocation policies that funnel "private" resources into sectors or industries designated by that government as having high priority.

We would also take note of recent public comments by Taiwan Aerospace executives which tends to confirm and support our concerns. Among these are the following:

From Dr. Denny Ko, President of Taiwan Aerospace Company: "We can continue to go back to government related banks or institutions for financing help if a proposed project

is attractive" (Wall Street Journal—November 18, 1992); "Taiwan Aerospace is aiming to become the linchpin between local industry, ROC government programs and foreign aerospace companies, to service the needs of both global and domestic markets" (Flight International December 4-10, 1991). "This will be the Airbus of Asia. Airbus has taken care of Europe, but there is no Asian entity" (Flight International December 4-10, 1991).

From Dr. David Huang, Chairman of Taiwan Aerospace Company, who was quoted in a speech given in late December, 1991 as saying: The Taiwan Government would "continue to invest in TAC until it makes a profit" (Far Eastern Economic Review—February 13, 1992).

The latter quote has reportedly angered Taiwanese legislators to the extent that they are now demanding final say over any investment in the MDC-TAC venture that the government decides to make.

In assessing the proposed arrangement then, Boeing's concern is not that McDonnell Douglas will continue as a competitor, or that other commercially funded and managed companies join them in competing in the marketplace.

Rather we are concerned that the government of Taiwan will undertake a significant role in this new enterprise and, that the result will reflect a commitment by Taiwan, a non-GATT signatory, to finance its entry into the world commercial aircraft industry on a non-commercial basis. In essence, a new, heavily subsidized Asian competitor will be in position to substitute its national imperative of developing factories and high value-added jobs, and acquiring high-technology to upgrade its industrial base, in place of the normal imperatives driven by sound product development and tight fiscal management.

While MDC has recently separated its military functions and products from its commercial airplane organization, we see no comparable separation of these functions in Taiwan Aerospace. As we understand it, both military and commercial functions will be encompassed within TAC and, while we assume that MDC will act responsibly to control and minimize technology transfer, we should not be naive regarding Taiwan's CASID program with its stated objective of acquiring technology transfer. Mr. David Huang, TAC's Chairman, once served as President of the Taiwan Military Research Laboratory, and is now an advisor to Taiwan's Premier, Hau Pei-tsun, himself a Taiwanese General and former chief of their General Staff as recently as 1989. This hardly describes a tidy separation of military and commercial ties.

What are the implications of the foregoing to Boeing and the aerospace industry infrastructure in the United States? The past 21 years have amply illustrated the impact that government subsidies and sales inducements can have on the commercial market. Purely commercial enterprises have suffered due to the market distortions caused by the impact of such subsidies and inducements. Airbus, a subsidized enterprise, has consistently gained market share against non-subsidized enterprises, most notably against McDonnell Douglas. If this were not the case, would we today be addressing a proposal whereby MDC will be essentially phasing out the manufacture of commercial aircraft—and transferring that function overseas? Yet, another subsidized manufacturer, located in Asia, will increase market distortions and significantly disadvantage companies like Boeing which must rely on traditional means of supporting development and sales.

The market for large commercial subsonic jet transports, over which the three present-day manufacturers are competing, is one in which Boeing has been successful, and which has made significant contribution and benefit to the United States. The manufacture of commercial airplanes supports some two million direct and indirect jobs nationwide. In 1990, the export of commercial jets amounted to about \$17 billion USD. Boeing accounted for about 80% of that, making us America's leading exporter for the past two years. Obviously, both Boeing and America have much to lose if an Asian Airbus is allowed to enter the marketplace.

Mr. Chairman, as you are aware, Taiwan is not bound by trade disciplines that govern aerospace manufacture in the United States and abroad. Taiwan is not a member of the GATT and has not taken on the obligations of the GATT Civil Aircraft Agreement. Furthermore, it is not bound by those OECD rules limiting subsidized export financing. As a consequence, Taiwan could engage in any number of trade distorting measures that could place us at a severe competitive disadvantage in U.S. and foreign markets.

In this context it is our view that the U.S. Government needs to act upon these matters. There are several approaches which we recommend be followed to assure that government subsidies, sales inducements and other means of governmental interference in the marketplace do not become part of the proposed MDC-Taiwan Aerospace business arrangement.

One option is that the U.S. government should negotiate now a bilateral agreement with Taiwan that would prevent the use of unchecked government subsidies and other trade-distorting measures to develop an aerospace industry. This agreement should include a provision for adequate transparency to ensure compliance with this agreement.

In conjunction with the CFIUS review process, the U.S. Government should examine the sources of funds and the ultimate financial requirements of the venture. The U.S.G. could condition its approval of the MDC-Taiwan venture under the CFIUS process on a commitment by MDC and Taiwan that the venture would not be subsidized or supported in a manner that contravenes international and domestic law governing aerospace trade. Again, appropriate transparency provisions are key to the successful monitoring and enforcement of such a commitment.

Finally, it is our view that the appropriate time for the U.S. Government to take the recommended action is now. Surely an undisciplined venture in the Far East will serve to jeopardize the USG's effort, to date only partially successful, of negotiating an agreement concerning Airbus Industrie subsidization practices.

Government subsidies are among the most serious long-term threats facing out jet transport industry today. The Airbus example is a clear demonstration of the damaging impact that subsidies have on the marketplace, and the extreme difficulty in addressing the problem once there has been a significant political and/or financial investment devoted to the creation of programs, facilities, equipment and jobs—and to the acquisition of technology. In the Taiwanese case, we are considering an arrangement with a country with which the U.S. had a \$13.0 billion trade deficit in 1989, and a \$11.2 billion deficit in 1990.

Further, unlike the situation with Airbus, once the MDC-TAC transaction is con-

summed, our ability to address subsidies and other trade distorting measures is extremely limited. Because the MDC-TAC venture is 50% American owned, we could not initiate a countervailing duty investigation, bring a GATT case, or file a section 301 case. So, in our view, the matter must be addressed, the ground-rules agreed, and the recommended provisions put in place at this time, not after it becomes "fait accompli".

Mr. Chairman, this approach must be coupled with a redoubled effort to discipline Airbus subsidization policies. Twenty one years of subsidies—which has resulted in a dramatic increase in market share at the expense of U.S. manufacturers—is enough. Our ability to create high paying jobs, to sustain economic growth, and to develop and commercialize new products depends upon an environment free of subsidies across both the Atlantic and the Pacific.●

#### IN RECOGNITION OF GEORGE S. WILSON

● Mr. FORD. Mr. President, I am honored to have this opportunity to rise today in recognition of an old friend and neighbor of mine, George S. Wilson. Mr. Wilson, an attorney from my hometown of Owensboro, KY, was recently elected president of the board of directors of the American Radio Relay League [ARRL]. This is the Nation's leading organization of amateur radio operators and includes over 160,000 members. The primary goal of the league is to provide backup for the Federal Communications Commission in case of national emergencies.

Mr. Wilson has been an active ham radio operator since the age of 16 and has a long service to the league. He was first elected vice director of the ARRL Board from the Great Lakes division in 1982. He has been section emergency coordinator and section communication manager for the league's Great Lakes division and served the league as volunteer counsel in the area of antenna rights for amateur radio operators. He has also been chairman of the volunteer resources committee and the volunteer monitoring committee of the board of directors.

I would also like to commend Mr. Wilson's public service to the people of Kentucky. He has been an integral part in advising the State government on disaster communications and working to provide maximum safety to the citizens of the Commonwealth. I know how fortunate the league and this Nation are to have him as president of their organization. Given his past service, there is no doubt in my mind that he will have a long and distinguished tenure as President.●

#### IN RECOGNITION OF DOUGLAS R. DOSCHER

● Mr. FORD. Mr. President, I rise today to honor one of our Nation's most outstanding truck driving professionals. Mr. Douglas R. Doscher, of Sulphur, KY, was recently selected by

the American Trucking Association as a representative of their "1992 America's Road Team." Mr. Doscher was 1 of only 11 selected for this distinction from among the Nation's 5 million truck drivers. He has accumulated more than 800,000 accident-free miles in his 12-year career. These members represent the best of professional truck driving as they all have exemplary driving records and excellent communication skills. They also serve as a focal point for the spirit of professionalism and dedication representative of America's truck drivers.

Through his duties with "America's Road Team," Mr. Doscher will tour the United States, appear before civic groups, the media, driver education students, and transportation officials to inform the public of the issues that affect the trucking industry. The team will also work with motorists and instruct the public on how to share the road safely with trucks. I certainly applaud their efforts at public safety through education.

Mr. Doscher also proudly served his country in Operation Desert Storm as a member of the Marine Corps Reserve, training others in the maneuvering of military and civilian vehicles. He continues to show his commitment to public service by taking time away from his career as a truck driver owner-operator to help educate motorists and prevent accidents.

Mr. Doscher, along with his wife Becky and their one child, have made the citizens of Kentucky very proud with their strong commitment to community and our Nation's safety. We are indeed fortunate to have the Doscher family as residents of the commonwealth.●

#### THE LONG-TERM HOME CARE ACT

● Mr. ADAMS. Mr. President, on February 5, I introduced S. 2193, the Long-Term Home Care Act. Today, I would like to say more about that legislation. I am very concerned about the lack of debate on long-term care. Appropriately, attention has been given to access to health care. However, it is essential that long-term care be part of the health-care reform debate. Disabled and older people across America are afraid that they will not have adequate home-care services to enable them to remain in their homes. They fear unnecessary or premature admission to a nursing home or other such facility. They fear the rising costs of nursing home care.

S. 2193 addresses a major problem in the areas of long-term care, that of inadequate services for people who want to remain in their own homes or in the homes of their loved ones. This legislation would provide long-term care to chronically ill or disabled older Americans and children, and to non-elderly Medicare beneficiaries, in the setting

where they most want it: their homes. The bill also includes a buy-in feature for all other disabled persons and a demonstration project to determine the cost of including all eligible persons, regardless of age. S. 2193 would provide a solid, and badly needed, foundation for a truly comprehensive long-term care system for all disabled and chronically ill Americans.

I wish to commend Congressman EDWARD ROYBAL, Chairman of the House Select Committee on Aging, for his work on the companion bill, H.R. 3180, that he introduced in the House.

I personally know the difficulty of providing long-term home care for a loved one. My aunt required long-term care at home for the last 5 years of her life. My family and I were fortunate to be able to provide her with the services she needed so that she could remain at home where she wanted to be. But, Mr. President, few Americans can afford home care for their family members and I am very concerned about them.

For many chronically ill and disabled persons, a nursing home stay is necessary. The contribution made by nursing homes in the care of the elderly is great. However, premature or unnecessary admissions are costly both emotionally and financially. The cost of a nursing home is very steep. Costs of \$36,000 a year are not uncommon. The grandmother of one of my staff members is a nursing home resident—her monthly bill is \$5,500. After 15 months—over \$80,000—she has become impoverished. We must provide help in meeting these costs.

A truly comprehensive long-term care system is going to be expensive, but we must start somewhere. The Long-Term Home Care Act provides this start. It would tackle first what the American public wants most: the ability to stay home for as long as possible.

While my bill does not provide coverage for institutional long-term care, nursing home care must be dealt with. I am pleased to say that I am part of the working group convened by the majority leader to develop a comprehensive long-term care bill. It is my hope that we will craft legislation that not only provides the full range of services but also ensures affordable long-term care for all Americans of all ages who need it.

S. 2193 would provide essential services such as nursing, social services, respite care, adult day care, medical equipment and supplies, personal care aides, homemaker aides, and home health aides. Also included are physical, occupational, respiratory, and speech-language therapies. Training and counseling would be provided both to those receiving long-term care services and to their caregivers. In addition, my bill provides for a comprehensive system of quality assurance for these services.

The States would help to determine which agencies will serve as long-term care management agencies. These agencies will determine eligibility for services, provide case management services, and arrange for the provision of services. My home State of Washington has established a solid record of managing long-term care services. That experience must be recognized and fostered in any Federal long-term care program. In addition, the Governors would be responsible for appointing the members of States' Consumer Boards, which are to play an important role in quality assurance.

There is something more that I intend to add to this bill. This addition is based on a hearing on "Finding and Fighting Malnutrition in the Elderly" that I held last week. The excellent witnesses pointed out that older people are at particular risk for malnutrition. Malnutrition contributes to longer hospital stays and increased complications from illness and injury. In short, malnutrition decreases the independence of older individuals and adds significantly to our health-care costs. Quite frankly, I am shocked to learn that malnutrition is very prevalent among older hospital patients and nursing home residents.

Identification of those individuals who are at moderate-to-high risk is key in being able to take appropriate action to prevent malnutrition. Therefore, I will work to include nutrition screening as a covered service in S. 2193. I believe that long-term care expenses will decrease for people living at home and for individuals in hospitals and nursing homes if at-risk individuals are identified and appropriate actions are taken to prevent malnutrition.

The bottom line in providing long-term care is, of course, how we pay for it. This legislation proposes financing that is realistic for the scope of its coverage. The program is financed by removing the caps on wages subject to the Hospital Insurance and Social Security portions of the payroll tax. Only the top 6 percent of working Americans would be affected. Additional financing is provided through modest copayments that do not apply to low-income individuals. Other provisions assure self-financing of this legislation.

It is important that we act soon on long-term care legislation. This bill—which is based on the outstanding work of one of our Nation's greatest champions for elderly and disabled individuals and children, the late Claude Pepper—gives us a realistic approach for taking a giant step forward. As Congress debates the crisis in long-term care, we must push for services that can be provided in the home.

Mr. President, this bill is an important start. But, I must repeat that it does not do everything. Now that this legislation has been introduced, I will

seek ways to provide for a truly comprehensive system. As part of the majority leader's working group, I am looking for a realistic way to finance the full range of long-term care, including nursing home care, and to cover all disabled Americans regardless of age. It will cost more, but it must be done.

The Long-Term Home Care Act is an important part of our commitment to reforming our health care system. While President Bush failed to include long-term care in his health plan, long-term care is clearly on my agenda. I ask my colleagues to join me in co-sponsoring this important piece of legislation. •

#### CONGRESSIONAL CALL TO CONSCIENCE VIGIL

• Mr. GRAHAM. Mr. President, I rise today to add my voice to the 16th Annual Congressional Call to Conscience Vigil. Each week, through the Call to Conscience, Congress brings attention to Soviet refusenik cases in order to urge the Soviet Union to allow them freedom. I would like to thank the distinguished cochairmen of this year's Vigil for allowing me to be a part of this important effort.

As Stalin once said, "a single death is a tragedy, a million deaths is a statistic." Our goal is to rid the refuseniks of the anonymity which allows us to forget them. By highlighting the individual hopes and heartaches of the refuseniks, we keep their struggle alive.

I speak today on behalf of Revmir Kanevsky, one of many who has been refused the right to emigration, on the basis of possessing State secrets or because they have been unable to obtain the necessary poor relative documentation. In November 1979, Revmir quit his job at the Separated Bureau of Constructors in the Lianosovo Electronical Mechanical Factory. After 10 years, in July 1989, Revmir and his wife applied to emigrate to Israel and were refused 6 months later on the basis of state secrets. He was instructed not to apply again until 1994—15 years after leaving his former work. He is anxious to see once again his 95 year-old mother who is growing increasingly blind. He remains unable to visit his daughter and grandson in Israel, and his mother and sister in the United States.

It is in our self-interest to make sure that the Commonwealth of Independent Republics understands the high value we place on religious tolerance, free emigration, and the basic right to live and work without fear. We cannot forget that the right to live as one chooses is as important as the right to live.

I am proud of the role Congress has played in turning the dream of free emigration into a reality. On a trip to the Soviet Union in August 1990, I held

extensive discussions with Soviet Foreign Ministry officials on this subject and presented a letter to the Kremlin leadership urging prompt passage of Soviet emigration legislation. The culmination of our efforts came in May 1991, when the Supreme Soviet adopted historic legislation to liberalize Soviet emigration policy. Nevertheless, serious stumbling blocks to free and open emigration remain. The law will not be fully implemented until January 1, 1993, and the vague definitions in the legislation leaves it open to broad interpretation.

The welcomed political liberalization in the former Soviet Union has also been accompanied by a disturbing increase in anti-semitism. I urge Russian President Yeltsin and the leaders of the republics to denounce this behavior openly and to enact and enforce laws protecting Jews. We cannot, however, risk waiting for steps that may or may not be taken by the authorities. The history of anti-semitism in the former Soviet Union makes it imperative that we move quickly to gain free emigration for all those wishing to leave.

We survey with joy and pride the tremendous progress in the Soviet Union. Through our continuing efforts and those of the Union of Councils For Soviet Jews, we have enabled many Soviet Jews to gain their freedom. More than 185,000 Jews left the Soviet Union in 1990. Our greatest tragedy would be to forget the thousands who remain behind. It is critical that we continue to work for those in desperate need of our support.

I appreciate this opportunity to let Revmir Kanesvksy know that he and his fellow citizens have not been forgotten. I look forward to the day when we no longer need such opportunities. •

#### THE RETIREMENT OF MAYOR THOM SERRANI

• Mr. DODD. Mr. President, I rise to express my appreciation and recognition of my good friend, Thom Serrani, on the occasion of his retirement from public service. Four term mayor of the city of Stamford, CT, Thom Serrani began his career in the State legislature 19 years ago. Throughout this career, he demonstrated a high level of commitment to the city of Stamford and the State of Connecticut.

Stamford born and raised, Thom graduated from Sacred Heart University before entering the public arena as a representative on the Stamford Board of Representatives from 1973 to 1975. Soon after, Thom was elected to the Connecticut House of Representatives and then to the Connecticut Senate. During this time, he chaired several key committees, until he was elected mayor of Stamford in 1983.

As mayor of Stamford, Thom proved himself to be an attentive and thoughtful administrator with the vision of a

committed reformer. Governing a city of 108,000 residents, Thom set a tone and pace of progressive achievement. It was no coincidence that Stamford received numerous awards during Thom's 8 year tenure as mayor. These honors reflected a dynamic leadership dedicated to the growth and prosperity of Stamford.

For instance, Stamford was cited by the U.S. Conference of Mayors for its exemplary work at establishing public-private partnerships to combat drug abuse. Stamford received three consecutive Certificates of Achievement for Excellence in Financial Reporting by the Government Finance Officer's Association. Stamford was also recognized by the U.S. Department of Housing and Urban Development for its innovative Rental Rehabilitation Program.

Thom's extraordinary energy and versatility brought him to the forefront of many task forces and community organizations whose aims were consistently those of advancing the public welfare. His talent and interest, however, have never been confined to parochial concerns alone, and frequently took on a global flavor. Thom chaired a panel at an international symposium on urban redevelopment in Jerusalem. He also spoke on various topics including mass transit in Toronto, Canada, auto-emissions in Atlantic City, NJ, and seat belt safety in Natick, MA.

While in office, Thom spearheaded a public art program, chaired the board of the Stamford Center for the Arts, developed the Mayor's Youth Advisory Board, and acted as a volunteer fireman and an emergency medical technician. The recipient of numerous achievement and appreciation awards, Thom's distinguished career has represented a model of effective leadership and dedicated community service. Though Stamford will certainly miss its long-time mayor, I have no doubt the future holds promising rewards for him. I wish Thom my very best and thank him for his many contributions.●

#### UNIVERSITY OF ALASKA FAIRBANKS

● Mr. MURKOWSKI. Mr. President, today I rise to salute the University of Alaska Fairbanks on its 75 years of service to Alaska.

For years, the university in Fairbanks was the only college in the vast northern territory where young Alaskans could go to receive a higher education. It precedes statehood by 41 years and, along with the University of Alaska's branch campus, has remained the leading institution of higher education in Alaska.

As a land-grant institution, the University of Alaska Fairbanks extends to the public the technology and knowl-

edge generated by research findings made in laboratories, at field sites, and in classrooms. From land-grant to sea-grant and now as a space-grant institution, the University of Alaska Fairbanks has provided the information we need to make our Nation competitive internationally.

In fact, the University of Alaska is one of only five institutions in the country that has earned this "triple crown" of land, sea, and space grant designations. UAF continues to play a vital role in the scientific advancement of our country.

UAF is perhaps the Nation's leading Arctic research institution. Its research in Arctic biology, oceanography, and Arctic systems science is giving us important information about global change. The university's Geophysical Institute, an important national scientific asset in and of itself, is defining the frontiers of auroral research, earthquake prediction, and volcano research.

In addition to its important role in the high-technology fields, UAF is also playing a vital role in providing a quality education to Alaska's young people. UAF has a large undergraduate population who receive degrees in liberal arts, business, education, and many other traditional college programs as well as the more technical fields such as petroleum engineering and Arctic science.

The University of Alaska Fairbanks has embraced the responsibility of providing its students with the important skills they will need in their future. This education is not limited to the skills you learn from the textbooks. The teachers and administrators at UAF take an active interest in the students' well-being and growth throughout the students' tenure at UAF.

Community activism has always been a part of UAF's long history. Fairbanks, AK, has benefited greatly by the presence of Alaska's oldest university, and indeed, UAF has benefited from the support they receive from Fairbanks. The community and the university have entered into a partnership that has been successful for 75 years.

I am proud that Alaska houses one of the finest universities in the United States and that Alaskans and non-Alaskans alike are afforded the opportunity to receive a quality education in my home State. My children have gone there as well as many members of my staff, and the University of Alaska Fairbanks provided them with the building blocks for a successful career and fostered in them a strong commitment to Alaska and our unique way of life.

I ask that these comments be submitted to the RECORD to commemorate and honor the University of Alaska Fairbanks on its 75 years of accomplishment and service.●

#### ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, March 12; that following the prayer, the Journal of Proceedings be deemed approved to date; and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the listed Senators recognized to speak for the time limits specified: Senator COATS for up to 20 minutes; Senators PELL and KASSEBAUM for up to 10 minutes each; Senator SPECTER for up to 15 minutes and Senator SIMPSON or his designee for up to 5 minutes; that when the Senate resumes consideration of H.R. 4210 at 10 a.m., Senator LEVIN be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, if I might have the attention of the distinguished acting Republican leader, Senator LEVIN will be recognized at 10 and there was informal agreement or understanding that a Republican Senator would be ready to offer an amendment upon the disposition of Senator LEVIN's amendment and that decision would be made by the Republican leader and the Republican managers. So presumably the Republican floor staff or others will be involved now in lining up a Republican to offer an amendment after Senator LEVIN's amendment.

Mr. SIMPSON. Mr. President, I am not fully familiar with that proposal, but along those lines if the majority leader is saying that he and the minority leader have discussed that, I just do not want to preclude the usual procedures or second-degree amendments or anything of that nature.

Mr. MITCHELL. Mr. President, the only thing that is agreed upon now is Senator LEVIN is going to offer an amendment at 10. That is the only formal agreement. So we have started with one on each side. The Republican leader and I discussed possibly continuing that if we can tomorrow. That of course could be up to the managers.

Mr. SIMPSON. Mr. President, that is acceptable.

#### RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, that completes our business for today. If the acting Republican leader has no further business, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:09 p.m. recessed until Thursday, March 12, 1992, at 9 a.m.